

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA, |) | Docket No. 17 CR 220-2 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| CAMERON BATTISTE, |) | Chicago, Illinois |
| |) | February 12, 2019 |
| |) | 10:00 o'clock a.m. |
| Defendant. |) | |

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MATTHEW F. KENNELLY, AND A JURY
VOLUME 2-A

APPEARANCES:

For the Plaintiff: UNITED STATES ATTORNEY'S OFFICE
BY: MR. ANKUR SRIVASTAVA
MR. SAURISH APPLEBY-BHATTACHARJEE
219 S. Dearborn St., Suite 500
Chicago, Illinois 60604

For the Defendant: LAW OFFICES OF JOSHUA B. ADAMS, PC
BY: MR. JOSHUA B. ADAMS
53 West Jackson Boulevard, Suite 1515
Chicago, IL 60604
(312) 566-9173

LAW OFFICE OF ALANA M. DeLEON
BY: MS. ALANA MARIA DeLEON
1016 West Jackson Boulevard
Chicago, IL 60607
(312) 531-0888

Court Reporter: MS. CAROLYN R. COX, CSR, RPR, CRR, FCRR
Official Court Reporter
219 S. Dearborn Street, Suite 2102
Chicago, Illinois 60604
(312) 435-5639

1 (The following proceedings were had in open court outside
2 the presence and hearing of the jury:)

3 THE COURT: Okay. We got one juror who had some
4 transportation problems. They were supposedly going to arrive
5 at Union Station at 9:57. So I assume they're on their way.

6 (Brief recess.)

7 (The following proceedings were had in open court outside
8 the presence and hearing of the jury:)

9 THE CLERK: Case No. 17 CR 220, USA v. Battiste.

10 THE COURT: Can I get the lawyers' names for the
11 record, please.

12 MR. SRIVASTAVA: Good morning, your Honor. Ankur
13 Srivastava and Saurish Appleby-Bhattacharjee for the United
14 States.

15 MR. ADAMS: Good morning, your Honor. Joshua Adams
16 and Alana DeLeon for Mr. Battiste, who is present at counsel's
17 table.

18 THE COURT: So I reported to counsel that one of the
19 jurors had some transportation problems this morning. He
20 isn't here yet. So I think from what I recall, her car broke
21 down, had to take a train. There was a delay, had to get a
22 ride to the train station, was supposedly going to get in
23 Union Station a little bit before 10:00 and hopefully going to
24 take a cab. But, you know, that's 20 minutes ago, so I don't
25 know what the story is. I just tried her phone and got

1 voicemail, so no luck there.

2 Is there anything we can do? Anything we can do
3 while we are waiting?

4 MR. SRIVASTAVA: Judge, yeah, while we are waiting,
5 there are a couple housekeeping matters we can address. So
6 one of them was with respect to our --

7 THE COURT: By the way, did your people get in?

8 MR. SRIVASTAVA: Yes. Everyone is here. We are
9 ready to go.

10 MR. ADAMS: He is on route from Milwaukee. He should
11 be here by 11:00 or 12:00.

12 MR. SRIVASTAVA: We have one witness who had
13 transportation issues. The agent went to go pick her up, so
14 she should be here.

15 So, your Honor, with respect to our motions in
16 limine, what we had listed as motion in limine number 3 was a
17 motion to call witnesses out of order. And I'm sorry, Judge.
18 This was docket --

19 THE COURT: Oh, this was the thing about the agent?
20 Did I not rule on that?

21 MR. SRIVASTAVA: No, there was a specific portion we
22 neglected to raise in court. The motion generally was two
23 pronged. It was, first of all, to have the witnesses testify
24 out of order so the government's DNA expert, then the
25 defendant, then the government's --

1 THE COURT: Oh, that. Okay.

2 MR. SRIVASTAVA: -- and we proposed that because we
3 had logistical issues in terms of scheduling our witness for
4 this week's trial. The defense objected to that, which we
5 understand, and they obviously don't have to take a position
6 on whether they are presenting a defense until we rest. So
7 that motion was denied.

8 But the other prong of that motion, which we did not
9 address, was we generally understand that there is a motion to
10 exclude witnesses. But what we had proposed was that the
11 experts be allowed to be in the courtroom to view the other
12 expert's testimony.

13 THE COURT: Do you have an objection to that?

14 MR. ADAMS: No objection.

15 THE COURT: That's fine.

16 MR. SRIVASTAVA: Okay.

17 THE COURT: That's fine. I'm sorry I didn't catch
18 that. That's absolutely normal and standard. That's granted.
19 Yeah.

20 MR. SRIVASTAVA: And then secondly, your Honor, we
21 did file --

22 THE COURT: You know, I'm just now seeing that here.
23 I just looked at the docket. I had not seen it before. So
24 let me just print it out and take a couple minutes to look at
25 it. This is the motion to reconsider?

1 MR. SRIVASTAVA: Yes.

2 MR. APPLEBY-BHATTACHARJEE: And I have a printed copy
3 for the Court.

4 THE COURT: Let me take a copy from you. It's
5 easier.

6 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.

7 THE COURT: Thanks. Just have a seat, and I'll take
8 a few minutes to read it. And then we can talk about it.

9 (Brief pause.)

10 THE COURT: The juror is here. So I'm just part way
11 through the motion to consider. How quickly does it become a
12 live issue?

13 MR. APPLEBY-BHATTACHARJEE: Just before the
14 government ends its case in chief.

15 THE COURT: Fine. We will deal with it --

16 MR. APPLEBY-BHATTACHARJEE: If we can take it up over
17 the lunch hour.

18 THE COURT: We can even deal with it at the -- if we
19 have a morning break, we'll deal with it at the morning break.

20 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.

21 MR. SRIVASTAVA: Judge, maybe just one other
22 housekeeping matter with respect to the experts in case we get
23 to them before taking a break. I didn't know if your Honor
24 had a courtroom policy --

25 THE COURT: Thank you very much for asking. People

1 usually don't ask. I know what you are going to ask, but
2 finish the question anyway.

3 MR. SRIVASTAVA: I had two questions, actually. One
4 is, if we lay a proper foundation that referring to notes
5 would be helpful to the witness, if you have any problem with
6 the witness having their notes on the stand?

7 THE COURT: Do you?

8 MR. ADAMS: No objection.

9 THE COURT: That's fine.

10 MR. SRIVASTAVA: And the second one, Judge, is
11 whether your Honor has a preference as to whether we tender
12 the witness as an expert.

13 THE COURT: That's what I thought you were going to
14 ask, and I appreciate you asking. People don't usually do
15 that. You may or may not know this. One of the reasons we
16 took the word "expert" out of the pattern jury instructions is
17 so it doesn't sound like the Court is putting an imprimatur on
18 the person.

19 So when you get to the end of qualifying the expert,
20 what you should say is, "May I proceed?" And I'll turn to you
21 at that point and ask you do you want to examine the witness
22 on her qualifications now, or do you want to hold it until
23 cross. You will probably tell me the latter, and I'll just
24 say, "Go ahead."

25 MR. SRIVASTAVA: Thank you, your Honor.

1 THE COURT: Okay. I really appreciate you asking.

2 MR. ADAMS: One other issue relating to the expert.
3 There is a chart the government gave to us over the weekend,
4 and we're going to object to the inclusion of it. We just
5 wanted to raise it with the --

6 THE COURT: Is it something I can deal with now, or
7 do I need to hear testimony?

8 MR. ADAMS: I think we should wait until --

9 THE COURT: Okay. Well, we'll wait.

10 MR. ADAMS: I just wanted to front it with the Court.

11 THE COURT: All right. So are we good to go?
12 You can bring them out.

13 (The jury enters the courtroom.)

14 THE COURT: All right. Everybody can have a seat.
15 And we're ready to resume -- I can't remember your name --
16 Ms. Buitron's testimony. I'm sorry if I mispronounced it. Do
17 you understand you are still under oath?

18 THE WITNESS: Yes, sir.

19 THE COURT: Go ahead and have a seat. Just, again,
20 you can pull the mic all the way towards you.

21 And I think we were ready for Mr. Adams at this
22 point.

23 MR. ADAMS: It will be Ms. DeLeon.

24 THE COURT: Sorry. My mistake.

25 MR. ADAMS: Sorry, your Honor.

1 THE COURT: That's okay. My mistake.

2 - - -

3 BRIGITTE BALCER BUITRON, CROSS-EXAMINATION

4 BY MS. DeLEON:

5 Q. Good morning.

6 A. Good morning.

7 Q. So when we wrapped up yesterday, we were talking about
8 your investigation into this case. Did you at any point have
9 an occasion to review or learn anything about the lease
10 information for the apartment complex where you arrived to
11 arrest Iesha Stanciel?

12 A. No.

13 Q. Okay. And when you testified yesterday, you had described
14 how Ms. Stanciel had walked out of a specific building; is
15 that right?

16 A. Correct.

17 Q. And you did not see Ms. Stanciel take the bag that she was
18 holding when she walked out of the apartment complex from
19 another person, correct?

20 A. Correct.

21 Q. And you did not see her hand it off to anybody at any
22 point, right?

23 A. Correct.

24 Q. You had described how when she got to the door to the
25 vehicle that she kept trying to open it. Is it your

1 understanding that she was unable to because of your approach
2 or because she started moving away from the vehicle?

3 A. Because the door was locked.

4 Q. The door was locked?

5 A. Yes.

6 Q. And so how many times would you say she had attempted to
7 get -- to gain access inside the vehicle?

8 A. Maybe four or five times. She just pulled on the door
9 handle.

10 Q. Okay. And the door remained locked; is that right?

11 A. Yes.

12 Q. Okay. You had described how Ms. Stanciel had a laundry
13 bag on her shoulder yesterday for us on direct testimony,
14 correct?

15 A. Correct.

16 Q. And that laundry bag you had occasion to look inside at a
17 later point?

18 A. Yes, at a later point.

19 Q. And who was it that picked the bag up from where
20 Ms. Stanciel had dropped it?

21 A. My partner, Anthony Aguirre.

22 Q. And were you present for when your partner picked that bag
23 up?

24 A. Eventually, yes.

25 Q. Okay. And when he removed the items from within the bag,

1 were you present?

2 A. No.

3 Q. And so did you not -- you did not observe -- Agent

4 Aguirre, is it?

5 A. Task force officer.

6 Q. Task Force Officer Aguirre.

7 You did not observe Task Force Officer Aguirre take
8 the items actually, physically out of the bag; is that right?

9 A. I did not.

10 Q. Okay. And so when was the first time that you saw the
11 items that were -- that came from the bag?

12 A. Probably towards the very end of the whole incident. I
13 can't exactly say when because I was still dealing with Iesha.

14 Q. Sure.

15 So at what point did you see the items?

16 A. I don't think I saw -- I had just seen the barrel of the
17 rifle when he first picked it up, but he didn't pull it out or
18 anything. He just kind of glanced at it. It was a barrel of
19 a rifle, and I don't think I saw the guns until later on,
20 until they were taken back to the office, I believe.

21 Q. Okay. So you did not see them at any point laid out --

22 A. No.

23 Q. -- then; is that correct?

24 Okay. And do you know how -- if you know, do you
25 know how the items were in the bag? Were the firearms wrapped

1 in anything?

2 A. It appeared to be wrapped in a blanket. I am not exactly
3 sure. It appeared to be a blanket, and I just kind of glanced
4 at it. I didn't get to inspect it or anything.

5 Q. And at no time -- when you were dealing with Ms. Stanciel,
6 at no time did she say anything to the effect of the items
7 aren't mine or pointing to who they possibly belonged to; is
8 that right?

9 A. She did not.

10 Q. Okay. And at no point did she say anything to the effect
11 of, he made me carry them, he made me do it, nothing?

12 A. She did not.

13 Q. Okay. And you don't know -- Task Force Officer, you don't
14 know where that bag was packed, correct?

15 A. I do not.

16 Q. Or where -- when the items were placed into that bag?

17 A. I do not.

18 Q. Or placed into the sheet or -- I'm sorry. I believe you
19 said it was a blanket. You don't know when --

20 A. I do not.

21 Q. -- they were placed inside that blanket into the bag?

22 A. Yes.

23 Q. Okay. You also testified yesterday that based on your
24 observations, you believed that certain motions Mr. Battiste
25 was making had a specific meaning, correct?

1 A. Correct.

2 Q. And that is your opinion, right?

3 A. Yes.

4 Q. That is not based on anything that you overheard

5 Mr. Battiste say, correct?

6 A. Correct.

7 Q. Or not based on any conversation that you had with

8 Mr. Battiste or any other party for that matter involved?

9 A. Correct.

10 Q. So when you had testified you believed that his gestures

11 were telling somebody to wait for him or wait a minute, that's

12 your opinion based on what you saw?

13 A. Correct.

14 Q. Okay. And so you didn't know who he was gesturing to, if

15 anybody at all, at the time?

16 A. Not initially.

17 Q. Right.

18 And so you assumed that it was Ms. Stanciel because

19 she exited a shorter amount of time between Mr. Battiste

20 coming out and you first observing her, right?

21 A. Correct.

22 Q. So you were guessing that it must have been her?

23 A. Correct.

24 Q. But you have no idea if other persons were standing inside

25 that doorway?

1 A. Correct.

2 Q. Because they were out of your sight?

3 A. Correct.

4 Q. You also observed Mr. Battiste coming out of the building,
5 right, initially? That's the first time you saw him?

6 A. Correct.

7 Q. And that was based on surveillance of the vehicle, right?

8 A. Yes.

9 Q. And that vehicle you learned was registered to whom?

10 A. I am not exactly sure who it was registered to.

11 Q. Okay. Do you know -- so I guess when you had testified
12 yesterday, you were describing how you believed when he
13 stepped out of the apartment complex, he was looking around?

14 A. Correct.

15 Q. And you don't know who he was looking for?

16 A. Correct.

17 Q. Or what he was looking for?

18 A. Correct.

19 Q. If perhaps he had, for instance, called a ride share and
20 was looking for somebody's ride or his ride?

21 MR. APPLEBY-BHATTACHARJEE: Objection.

22 THE COURT: I'm sorry. I didn't hear what you said.

23 MR. APPLEBY-BHATTACHARJEE: Objection.

24 THE COURT: Basis?

25 MR. APPLEBY-BHATTACHARJEE: Speculation.

1 THE COURT: You have made your point. The objection
2 is sustained.

3 MS. DeLEON: Thank you, Judge.

4 BY MS. DeLEON:

5 Q. Lastly, we had talked about yesterday I believe at the
6 close of yesterday's testimony your concern for officer
7 safety. Do you recall that?

8 A. Yes.

9 Q. Okay. And we discussed officer safety and how -- and you
10 had stated that had you known that perhaps firearms would be
11 involved, you would have brought more agents; is that right?

12 A. Correct.

13 Q. Okay. And so is it safe to say that when firearms are
14 involved, it changes your behavior as a task force officer?

15 A. Yes. It changes our tactics.

16 Q. Okay. So it changes your tactics, and it would change the
17 nature of your investigation were you to find firearms or
18 discover firearms in a place you didn't expect them?

19 A. Correct.

20 Q. Okay. So when you're serving this arrest warrant on Iesha
21 Stanciel, then these firearms were found, that certainly
22 changed the nature of the encounter for you as a task force
23 officer, correct?

24 A. Well, it was after the fact, once everything was settled
25 down, that we realized that there was guns in the bag.

1 Q. Sure.

2 So -- but it's still an officer safety concern,
3 right, that firearms were found?

4 A. Yes.

5 Q. Okay. And if it changed the nature of your encounter or
6 the way that you're perceiving this event for you and your --
7 the other officers and agents on the scene, it's your
8 understanding that you now have a firearms investigation;
9 isn't that correct?

10 A. Yes. After the fact, once everything was handled, now
11 there is that investigation.

12 Q. Okay. So you served the arrest warrant. That arrest
13 warrant was executed, right?

14 A. Correct.

15 Q. Okay. And Ms. Stanciel was placed in handcuffs?

16 A. Correct.

17 Q. And she was in custody. She was secure, right?

18 A. That whole process took about 25 minutes because there was
19 an issue with that, so it took some time.

20 Q. Right.

21 A. And then I actually had to deal with her because we ended
22 up having to call another caged vehicle to transport her
23 because after the arrest --

24 Q. There was difficulty.

25 A. Yes.

1 Q. Right. Understood.

2 A. And I was a part of that.

3 Q. Okay. And but I guess my point is is that that -- serving
4 the arrest warrant was completed, and now firearms were
5 recovered. So you're certainly, as a task force officer,
6 going to be now focusing, now that one point is finished, onto
7 the next, the fact that firearms are recovered?

8 A. Correct.

9 Q. Okay. So in the course of your investigation related to
10 these firearms, did you ever have any occasion to or
11 discussion of even discovering where in the apartment complex
12 she came out of, where, in fact, she lived?

13 A. I did not take part in the investigation when it pertained
14 towards the weapons.

15 Q. Okay.

16 MS. DeLEON: If you will just give me one second.

17 THE COURT: Sure.

18 (Brief pause.)

19 MS. DeLEON: Thank you for your time.

20 THE COURT: Redirect?

21 MR. APPLEBY-BHATTACHARJEE: Yes, your Honor.

22 - - -

23 BRIGITTE BALCER BUITRON, REDIRECT EXAMINATION

24 BY MR. APPLEBY-BHATTACHARJEE:

25 Q. Hello again, Officer Balcer.

1 A. Good morning.

2 Q. Were you the case agent for the investigation into
3 Ms. Stanciel?

4 A. I was not.

5 Q. On April 7, 2017, were you there to assist with the arrest
6 of Ms. Stanciel?

7 A. Correct.

8 Q. Is that the extent of your participation in this case?

9 A. Correct.

10 Q. You were asked on cross-examination about Ms. Stanciel
11 approaching a locked door of the car. Do you recall that?

12 A. Correct.

13 Q. Do you know why the door was locked?

14 A. I have no idea.

15 Q. Do you know if the car was still engaged in reverse when
16 Stanciel approached it?

17 A. Correct. The vehicle was still moving as she was trying
18 to open the door.

19 Q. And as the vehicle was still moving, she was unable to
20 enter the door?

21 A. Correct.

22 Q. Now, you were asked about your observations of the
23 defendant holding up a finger. Do you recall that?

24 A. Yes.

25 Q. In the moments after you observed the defendant hold up

1 his finger facing the entryway, did you see anyone walk out of
2 the entryway in the immediate moments after?

3 A. No.

4 Q. After defendant pulled the car up near the entryway, how
5 many people walked out of the apartment building?

6 A. One.

7 Q. Who was that?

8 A. Iesha Staniel.

9 Q. Do you recall observing the defendant running away?

10 A. Correct.

11 MS. DeLEON: Objection, your Honor. That's outside
12 the scope.

13 THE COURT: Overruled. The answer can stand.

14 BY MR. APPLEBY-BHATTACHARJEE:

15 Q. Was the bag containing the firearms opened at the time the
16 defendant ran away?

17 A. No.

18 Q. Had the firearms been found by law enforcement before
19 defendant ran away?

20 A. No.

21 MR. APPLEBY-BHATTACHARJEE: No further questions.

22 THE COURT: Anything else based on redirect?

23 MS. DeLEON: No, your Honor.

24 THE COURT: The witness is excused. You can call the
25 next witness.

1 MR. SRIVASTAVA: Your Honor, at this time, the
2 government calls Task Force Officer Anthony Aguirre.

3 (Witness sworn.)

4 THE COURT: Go ahead.

5 - - -

6 ANTHONY AGUIRRE, DIRECT EXAMINATION

7 BY MR. SRIVASTAVA:

8 Q. Good morning, sir. Can you please state and spell your
9 name for the record.

10 A. Anthony Aguirre; A-n-t-h-o-n-y, Aguirre, A-g-u-i-r-r-e.

11 Q. Can you tell us where you work, sir?

12 A. I'm assigned to FBI as a task force officer.

13 Q. And when you say you're assigned to FBI as a task force
14 officer, do you also work somewhere else?

15 A. Yes. Work for Cook County Sheriff's Police.

16 Q. And you are currently detailed or working for the FBI?

17 A. Yes.

18 Q. Okay. How long have you been a law enforcement officer?

19 A. For a little over 23 years.

20 Q. How long have you been a task force officer with the FBI?

21 A. A little over three years.

22 Q. Are you assigned to a particular unit within the FBI?

23 A. Yes.

24 Q. What unit is that?

25 A. It's a South Area 1 violent crimes, South Area.

1 Q. Can you just briefly tell us what your responsibilities
2 are.

3 A. RICO cases, kidnappings, bank robberies.

4 Q. Sir, are you familiar with an individual by the name of
5 Iesha Stanciel?

6 A. Yes.

7 Q. Did you assist with executing a warrant for Iesha
8 Stanciel's arrest on the afternoon of April 7th, 2017?

9 A. The attempt?

10 Q. I'm sorry?

11 A. Yes.

12 Q. And in order to execute that warrant, did you go to an
13 apartment complex located at 10 South 481 Ivy Lane in
14 Willowbrook?

15 A. Yes.

16 Q. Who did you go there with?

17 A. With Brigitte Buitron. And eventually Michael Ericks
18 showed up.

19 Q. And when you went to that location, were you there to
20 arrest anyone other than Ms. Stanciel?

21 A. No.

22 Q. When you arrived there, were you aware that the defendant,
23 Cameron Battiste, was at that location?

24 A. No.

25 Q. Did you know who Cameron Battiste was?

1 A. No.

2 Q. So what did you do when you arrived at the apartment
3 complex?

4 A. We were given information of a vehicle and -- a vehicle
5 description and a plate number, and we were searching for
6 that. Once we located that vehicle, we set up on surveillance
7 to watch that vehicle.

8 Q. When you say you set up on surveillance, can you describe
9 what you mean by that?

10 A. In a position where we can continue to watch the vehicle.

11 Q. And can you describe where you were positioned in relation
12 to the front door of the apartment building?

13 A. We initially were south of there, south of the front
14 doors. The front door faces westbound. And we were
15 initially -- correction -- we were initially west, and then we
16 relocated to a closer position, which was just south of there
17 for like -- just south of the doors.

18 Q. And maybe this is an easier way to ask this. If someone
19 were to walk out of the apartment building, would they turn
20 right or left to go towards your car?

21 A. They would turn left.

22 Q. And about how far down from the front door of the
23 apartment building were you?

24 A. Ten feet. It was two car spaces, approximately two car
25 spaces.

1 Q. And were you on foot or in a vehicle?

2 A. We were in a vehicle.

3 Q. What kind of vehicle? Marked or unmarked?

4 A. Unmarked.

5 Q. And were you and your partner in plain clothes?

6 A. Yes.

7 Q. Okay. And you indicated you were conducting surveillance
8 on a particular vehicle; is that correct?

9 A. Yes.

10 Q. Were you looking also at anything else?

11 A. At the doors.

12 Q. The doors to the apartment building?

13 A. Yes.

14 Q. Okay. And as you were looking at the door to the
15 apartment building and conducting surveillance on the vehicle,
16 did anything catch your attention?

17 A. Yes. Eventually Cameron exited the residence or the
18 building.

19 Q. And when you say Cameron exited the building, at the time
20 you first saw this individual, did you know who he was?

21 A. No.

22 Q. Okay. The person who exited the building, is that someone
23 you see here in court today?

24 A. Yes.

25 MR. ADAMS: Judge, we will stipulate the witness

1 identification.

2 THE COURT: It's stipulated that he would identify
3 Mr. Battiste.

4 You can proceed.

5 BY MR. SRIVASTAVA:

6 Q. Can you just tell -- describe for the ladies and gentlemen
7 of the jury what the defendant did when he exited the
8 building.

9 A. He walked into the parking lot, and he began to look
10 around. And as soon as he looked in our direction, I turned
11 to face Brigitte so we would no longer make eye contact. So
12 after he started to look around, I don't know what he was
13 doing.

14 Q. So you indicated that the defendant made -- looked at you
15 and your partner and your vehicle?

16 A. Yes. He was -- he began to look left and right in the
17 parking lot. And as soon as he looked at us, I looked to my
18 left, so I would -- so he would no longer think that we're
19 paying attention to him.

20 Q. Okay. So did you see what the defendant did after he
21 looked at you and your partner?

22 A. He eventually went to the vehicle that we were watching.

23 Q. Did you see him walk towards the front door of the
24 apartment, or was your attention directed elsewhere?

25 A. My attention was directed elsewhere.

1 Q. After you saw the defendant go into the vehicle that you
2 had been conducting surveillance on, what, if anything, did
3 you see him do?

4 A. He got into the driver's seat, and he reversed the vehicle
5 close to the doors above the yellow lines. So it was not an
6 initial parking spot. It's the closest position you can take
7 to the front door.

8 Q. And once the defendant positioned that vehicle close to
9 the front door, what did you see?

10 A. We seen a female who we thought would be Iesha Stanciel
11 standing by the front glass doors. The doors to the building,
12 it's glass, so we threw our vests so we could be clearly
13 marked.

14 Q. Okay. And after you threw on your vest, what did you do?

15 A. As soon as we seen Iesha exit the door, got a better look
16 to positively identify Iesha, we exited our vehicles.

17 Q. Okay. And just so I'm clear, before you went to that
18 apartment complex, did you receive any information on who you
19 were trying to arrest?

20 A. Yes. Iesha?

21 Q. Yes.

22 A. Yes.

23 Q. Was part of that information a photograph of Ms. Stanciel?

24 A. Yes. We went to another location earlier in the day
25 looking to effect an arrest of Iesha.

1 Q. Okay. But I guess my question, sir, is, when you saw
2 Ms. Stanciel walk out of the apartment building, did you know
3 who that was?

4 A. Yes.

5 Q. And that was based on a photograph you had seen?

6 A. Yes.

7 Q. Okay. So when you saw Ms. Stanciel walk out of the
8 apartment building, was she carrying anything?

9 A. She was carrying a bag.

10 Q. What kind of bag?

11 A. At the time, it was just an over-the-shoulder big bag.

12 Q. And where did she go?

13 A. She went to the front passenger's side of that black
14 vehicle.

15 Q. As she walked to the front passenger's side of the
16 vehicle -- and just to be clear, that's the vehicle that the
17 defendant had backed into near the front door?

18 A. Yes.

19 Q. Okay. What did your partner, TFO Brigitte Balcer, do?

20 A. She went around to the passenger's side and was yelling
21 commands to her. I don't know exactly the words that she used
22 because my focus was on getting Battiste to put the vehicle
23 into park.

24 Q. Okay. So did you approach the defendant in the driver's
25 seat?

1 A. Yes.

2 Q. What, if anything, did you say or do?

3 A. I was yelling commands, "Let me see your hands," and to
4 put the car in park.

5 Q. Did you see -- did the defendant immediately comply?

6 A. No.

7 Q. Can you describe what happened next?

8 A. I heard Iesha tapping on the window, saying, "Open the
9 door." And the car was still in gear. And as soon as he
10 pressed the unlock button, that's when I opened the door.

11 Q. So you saw the defendant press the unlock button to the
12 vehicle?

13 A. Yes.

14 Q. And then you opened which door?

15 A. I opened the driver's side door.

16 Q. After you opened the driver's side door, that's near the
17 defendant?

18 A. Yes.

19 Q. What happened after that?

20 A. I'm still yelling commands for him to put the car into
21 park because -- I mean, it's still in park. I didn't want him
22 to injure Brigitte or Mike who was also now coming up to the
23 front of the car.

24 Q. And as you were giving these commands, what, if anything,
25 did the defendant do?

1 A. He eventually put it into park. Once he put it into park,
2 I requested that he turn the vehicle off. And as soon as he
3 turned the vehicle off -- or as soon as he put it into park,
4 he ran.

5 Q. Did you chase him?

6 A. Yes.

7 Q. Did anyone else help you to chase him?

8 A. Yes.

9 Q. Who was that?

10 A. Michael Ericks.

11 Q. Did you eventually catch up to the defendant?

12 A. Yes.

13 Q. At that point did you place him in handcuffs?

14 A. Yes.

15 Q. After placing the defendant in handcuffs, did you go back
16 to assist your fellow task force officer who had been dealing
17 with Ms. Stanciel?

18 A. Yes.

19 Q. What, if anything, did you see or do when you went back to
20 that area?

21 A. Stanciel continued to resist. By then -- by the time I
22 came back, Brian Wentz, who was also an agent, he was also
23 assisting Brigitte. So after I was able to confirm that they
24 were okay, I was going back and forth between Cameron, Mike at
25 the time had him, and Stanciel.

1 Q. And as you and your fellow agents gained control of the
2 scene, at some point did you go to retrieve the bag that
3 Ms. Stanciel had been carrying out to the car?

4 A. Yes.

5 Q. Okay. And can you describe what happened when you
6 approached the bag?

7 A. Well, before that, I heard somebody. I heard somebody
8 yell, "Don't get involved." So I looked to my right. I seen
9 the bag standing there. I didn't want the bag to get moved,
10 so I went to go -- it's Iesha's property at that time. So she
11 was placed into custody, and she was going to be arrested. I
12 went to go retrieve that bag.

13 Q. And when you went to go retrieve it, had the bag been
14 opened or was it still closed?

15 A. It was still closed.

16 Q. Okay. And if we can publish, your Honor, Government's
17 Exhibit 10.

18 THE COURT: Off the computer?

19 MR. SRIVASTAVA: Off the computer, please.

20 THE COURT: There you go.

21 BY MR. SRIVASTAVA:

22 Q. Task Force Officer Aguirre, does that photograph depict
23 what the laundry bag looked like while it was still closed?

24 A. Yes.

25 Q. Okay. And can you describe what those objects are that

1 are protruding from the top of the laundry bag towards the
2 right side of the screen?

3 A. There is a blanket, like bedsheets, and then a plastic bag
4 protruding out of it.

5 Q. So there is an object in a sheet and a black plastic bag
6 around that?

7 A. Yes.

8 Q. And all that is inside that laundry bag?

9 A. Yes.

10 Q. What part of this bag did you touch when you first tried
11 to pick it up?

12 A. One hand I grabbed the black handle. The other hand I
13 grabbed the bedsheet.

14 Q. And what did you feel when you grabbed the bedsheet?

15 A. When I grabbed the bedsheet, I felt the muzzle of the
16 rifle.

17 Q. Were these -- after you felt what you said was a muzzle,
18 what did you believe, based on your training and experience,
19 was inside that bag?

20 A. I knew it was a rifle at that time.

21 Q. How did you know it was a rifle?

22 A. I've been in law enforcement for 20-something years. I've
23 seen multiple and I've held rifles.

24 Q. Was the laundry bag ultimately opened and items removed?

25 A. Yes.

1 Q. Okay. Were there items of clothing inside that laundry
2 bag?

3 A. Yes.

4 Q. Okay. And primarily what type of clothing?

5 A. Men's clothing, but I didn't look to see what else was in
6 there.

7 Q. Do you remember seeing a lot of children's clip-on ties
8 and things like that?

9 MR. ADAMS: Objection, leading.

10 THE COURT: Sustained.

11 BY MR. SRIVASTAVA:

12 Q. Task Force Officer Aguirre, is your memory exhausted as to
13 what was inside the bag?

14 A. I know what's in the bag now. I didn't know at the time.
15 Sorry.

16 Q. Okay. So as you sit here today testifying, do you now
17 recall what was inside the laundry bag, including clothing?

18 A. Yes.

19 Q. Okay. What type of clothing was inside the laundry bag?

20 A. Collared shirts, like men -- a men's pink collared shirt,
21 smaller man's dress shirts, and clip-on ties and a hat.

22 MR. SRIVASTAVA: If I may have just a moment, your
23 Honor.

24 THE COURT: Sure.

25 (Brief pause.)

1 MR. SRIVASTAVA: And, your Honor, what I'd like to do
2 is approach the witness with what was previously entered as
3 Government's Exhibit 14.

4 BY MR. SRIVASTAVA:

5 Q. Task Force Officer Aguirre, I'm going to hand you a pair
6 of rubber gloves. I will ask you to put those on.

7 A. Can I stand?

8 MR. SRIVASTAVA: Judge, the witness is inquiring if
9 he can stand.

10 THE COURT: That's fine. Yeah. And you can just set
11 that over there somewhere. Just put it up on this thing here
12 so it's out of the way.

13 BY MR. SRIVASTAVA:

14 Q. And, sir, if you can try to show the ladies and gentlemen
15 of the jury what's inside the open plastic bag.

16 A. The laundry bag.

17 Q. What is that?

18 A. This was the shoulder laundry bag.

19 Q. And when did you first observe that?

20 A. When Iesha walked out of the building.

21 Q. Is that the same bag that contained the rifle that you
22 described being inside the sheet and black plastic bag?

23 A. Yes.

24 Q. Okay. Now, are you familiar with what's inside this box?

25 A. Yes.

1 Q. What's inside this box?

2 A. Men's clothing, men's ties.

3 Q. Okay. Generally speaking, is this the items of clothing
4 that were inside the bag?

5 A. Yes.

6 Q. Okay. What I'd like you to do now is take those out one
7 by one and show the ladies and gentlemen of the jury what kind
8 of clothing was inside the laundry bag.

9 And as you're taking the items out, sir, if you could
10 just describe them.

11 A. A pink collared dress shirt, size 17 and a half; white
12 collared shirt, size 20; pink tie. And then these are smaller
13 shirts; size 16 collared shirt collared shirt, smaller
14 collared shirt, an XL shirt.

15 Q. Is that a children's XL or men's XL?

16 A. I couldn't tell you.

17 Q. Would you be able to fit into that shirt, sir?

18 A. I would, but I'm not a big guy.

19 Q. Approximately how big are you?

20 A. Approximately five-eight.

21 MR. ADAMS: Objection, your Honor.

22 THE COURT: Overruled.

23 BY MR. SRIVASTAVA:

24 Q. If you can continue to show the ladies and gentlemen of
25 the jury the other items of clothing.

1 A. Collared shirt.

2 Q. About how big are those collard shirts?

3 A. These are large shirts size 15, size 14/15. Polo collared
4 shirt, size 14. Eddie Bauer shirt, collared shirt, collared
5 shirt.

6 Q. And that Eddie Bauer shirt, since you didn't give a size
7 to it, is that about the same size as the size 14 shirt --

8 A. Yes.

9 Q. -- that you just put down?

10 A. Yes.

11 Hankies. Another collared shirt, 15 and a half. 34,
12 35. Small shirt, dress shirt.

13 Q. About how big is the dress shirt?

14 A. Medium fitted, Casual Corner, so female's. Size 8, size
15 14. And then a ton of ties. Do you want me to pull these all
16 out?

17 Q. If you can just describe for the ladies and gentlemen of
18 the jury, are those all large men ties, or are there also some
19 smaller ties?

20 A. These are large men ties, and then these are smaller kids'
21 ties. They're clip-ons.

22 Q. For the record, you're holding up right now --

23 A. These are clip-ons.

24 Q. -- four clip-on ties?

25 A. Yeah. Do you want me to get them all out? I mean,

1 there's --

2 Q. About how many are in the box?

3 A. I'd say a little bit more than 10, 10 to 15.

4 Q. Okay. You can begin to put those items of clothing back
5 in the box. But just to be clear, are these items of clothing
6 all items of clothing that were recovered from the laundry
7 bag?

8 A. Yes.

9 Q. Having now gone through this clothing again, is it still
10 your testimony that it was men's clothing that was inside the
11 bag?

12 A. Men's, boys', and it appears that's a female, so...

13 Q. So a combination of different types of clothing?

14 A. Yes.

15 Q. Okay. You can put these items of clothing back.

16 And if you could hand me the laundry bag that was
17 also part of Government's Exhibit 14.

18 A. Do you want me to put it in the envelope?

19 Q. Yeah, you can put it in the envelope.

20 So in addition to the clothing and the assault rifle
21 that you described feeling a portion of, what else was inside
22 that laundry bag?

23 A. A 9-millimeter gun.

24 MR. SRIVASTAVA: May I have just a moment, your
25 Honor?

1 THE COURT: Sure.

2 (Brief pause.)

3 BY MR. SRIVASTAVA:

4 Q. Sir, you described yourself as five-foot eight and how
5 large in terms of weight?

6 A. 170.

7 Q. Okay.

8 MR. ADAMS: Objection, relevance, Judge.

9 THE COURT: Overruled. I had previously overruled
10 the objection to that, and it just got garbled when he
11 answered it. So...

12 BY MR. SRIVASTAVA:

13 Q. Have you had an opportunity to interact with the defendant
14 going back to April 7, 2017, and also see him in court today?

15 A. Yes.

16 Q. How would you say his size compares to yours in terms --

17 THE COURT: Why don't you just ask is he bigger or
18 smaller?

19 BY MR. SRIVASTAVA:

20 Q. Is he bigger or smaller?

21 A. He is bigger.

22 MR. SRIVASTAVA: No further questions, your Honor.

23 THE COURT: Mr. Adams.

24 - - -

25 ANTHONY AGUIRRE, CROSS-EXAMINATION

1 BY MR. ADAMS:

2 Q. Good morning.

3 A. Good morning.

4 Q. I'd like to talk to you first about a report you wrote
5 related to this -- to Ms. Stanciel's arrest. And then we're
6 going to go over some other stuff about April 7th. Is that
7 okay with you?

8 A. Yes.

9 Q. All right. Now, you have been in law enforcement for over
10 20 years, correct?

11 A. Yes.

12 Q. And you're trained in writing reports?

13 A. Yes. I didn't --

14 Q. How many reports have you written in your over two decades
15 of experience? Hundreds?

16 A. Over hundreds, yeah.

17 Q. And the purpose of writing these reports is to memorialize
18 certain events, correct?

19 A. Yes.

20 Q. And you decide what to put in the reports?

21 A. Yes.

22 Q. And you decide what to leave out?

23 A. Yes.

24 Q. And you put in the important facts, the important things
25 you want to remember in these reports, right?

1 A. Yes.

2 Q. Part of that is in case you testify at a trial, you want
3 to remember what happened, correct?

4 A. Yes.

5 Q. Now, did you write a report in this case?

6 A. I did not.

7 Q. Did you write a report with Agent Ericks and Agent Balcer?

8 A. Yes.

9 Q. So you did?

10 A. So I didn't type it, but I was on there to proofread it.

11 Q. So you have read that report?

12 A. Yes.

13 Q. Did you notice anything incorrect or any errors in that
14 report?

15 A. Not that I can recall.

16 Q. Had you noticed anything incorrect or wrong, would you
17 have notified Agent Ericks?

18 A. Yes.

19 Q. Would you have written your own report?

20 A. No.

21 MR. ADAMS: Your Honor, may I approach?

22 THE COURT: Sure.

23 THE WITNESS: Sorry. Just not following along here.

24 BY MR. ADAMS:

25 Q. Agent, I just handed you what I marked for identification

1 as Battiste Exhibit A. Do you recognize what that is?

2 A. This is the report that Ericks wrote.

3 Q. Have you read that report before?

4 A. I have.

5 Q. How many times have you read that report?

6 A. Twice.

7 Q. Twice.

8 And when is the most recent time you read that
9 report?

10 A. A couple days ago.

11 Q. And when you read it then, did you notice any errors or
12 omissions in that report?

13 A. I did not.

14 Q. Agent, I've also handed you a green highlighter. Do you
15 have that in your hand?

16 A. I do.

17 Q. All right. Now, I want to go back to what you told this
18 jury a few minutes ago. You mentioned that when you went to
19 arrest Ms. Stanciel, you said that you saw her tapping on the
20 car window, correct?

21 A. Yes.

22 Q. And you also said that you heard her say, "open the door"?

23 A. Yes.

24 Q. Do you remember telling that to the jury?

25 I want you to take the green highlighter and please

1 highlight in your report where it says that.

2 MR. SRIVASTAVA: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: I don't see it in the report.

5 BY MR. ADAMS:

6 Q. All right. You also told this jury earlier that you heard
7 someone say, "Don't get involved." Do you remember saying
8 that?

9 A. Yes.

10 Q. And you told the jury that you heard that after Iesha was
11 arrested; is that correct?

12 A. Yes.

13 Q. Who said that?

14 A. The only thing I can give you right now is a description
15 of her. It was a female, black, in her mid 40s.

16 Q. A female, black, in mid 40s. And was she in the parking
17 lot?

18 A. Yes. She was between cars.

19 Q. Did you interview her?

20 A. I did.

21 Q. You did? Did you write a report about that?

22 A. I did not.

23 Q. Agent, I'd like for you to take that green highlighter
24 again and highlight in that report where it says that you
25 heard this woman say, "Don't get involved."

1 A. It doesn't say that here.

2 MR. ADAMS: Your Honor, may I approach again?

3 THE COURT: That's fine.

4 BY MR. ADAMS:

5 Q. Agent, you also told this jury that when you took this
6 bag, you were able to feel a muzzle. Do you remember saying
7 that?

8 A. Yes.

9 Q. Is that because the sheet wrapped around this firearm was
10 wrapped very tightly, correct?

11 A. It wasn't wrapped really tight, but just by the way I
12 grabbed it.

13 Q. So tight enough you could make out the size and shape of a
14 muzzle, correct?

15 A. I felt it. Once I grabbed it, I felt it. I knew it was a
16 muzzle.

17 Q. And there was a bedsheet wrapped around that, correct?

18 A. Yes.

19 Q. So after you retrieved these firearms and you opened up
20 this bag with clothes in it, did you go into the apartment
21 complex?

22 A. No.

23 Q. Did you go into Ms. Stanciel's apartment unit?

24 A. No.

25 Q. Do you know which apartment unit Ms. Stanciel lived in?

1 A. No.

2 Q. Do you know how many people were in that unit?

3 A. No.

4 Q. How many people were in the apartment complex at the time
5 on April 7th when you arrested Ms. Stanciel?

6 A. People? I don't know how many people. I just know how
7 many units there are.

8 Q. How many units are there?

9 A. 32.

10 Q. 32 units?

11 A. Yes.

12 Q. And out of those 32, do you know which one Ms. Stanciel's
13 is?

14 A. I do not.

15 Q. Now, you told this jury earlier that this woman -- you
16 interviewed this woman, and you did not write a report. How
17 many people did you interview on April 7th?

18 A. She was the only one that I spoke to.

19 Q. Did you get her name?

20 A. At the time I did.

21 Q. You don't have it anymore?

22 A. I do not.

23 Q. Now, Agent, when you approached Ms. Stanciel, you saw her
24 drop this bag, correct?

25 A. I didn't see it drop. I seen her walk out with the bag.

1 I didn't see it when it dropped.

2 Q. And you didn't hear her say, "These aren't mine," correct?

3 A. No, at that time, I did not.

4 Q. She didn't say anything else about the firearms, did she?

5 A. No.

6 Q. In fact, she didn't say anything, did she?

7 A. Not to me.

8 MR. ADAMS: One moment, your Honor.

9 THE COURT: Sure.

10 (Brief pause.)

11 BY MR. ADAMS:

12 Q. Agent, you just took out a variety of different clothes
13 from that bag. Do you remember doing that?

14 A. Yes.

15 Q. And they're all different sizes. Do you remember that?

16 A. Yes.

17 Q. Size 14, 15, 16, 20, correct?

18 A. Yes.

19 Q. And there was also children's clothes?

20 A. Yes.

21 Q. And children's ties?

22 A. Yes.

23 Q. Who put the clothes in the bag?

24 A. What do you mean who put the clothes -- I don't know --

25 Q. How did the clothes get in that bag?

1 A. I don't know.

2 Q. Whose clothes were they?

3 A. I don't know.

4 Q. Did you test those clothes for DNA or fingerprints?

5 A. No.

6 Q. What happened to the bedsheet that was -- the firearm was
7 wrapped in?

8 A. I don't know.

9 MR. ADAMS: Nothing further, your Honor.

10 THE COURT: Redirect.

11 - - -

12 ANTHONY AGUIRRE, REDIRECT EXAMINATION

13 BY MR. SRIVASTAVA:

14 Q. Task Force Officer Aguirre, when you arrived at the
15 apartment complex in Willowbrook, you were asked if you
16 searched Ms. Stanciel's apartment. Do you recall that
17 question?

18 A. Yes.

19 Q. Did you have a warrant allowing you to do so?

20 A. No.

21 Q. Can you tell us if the purpose of law enforcement sworn
22 reports are to include every single detail or the details that
23 you believe are important at the time?

24 A. The details we believe are important at the time.

25 Q. The details that were not included, did you believe those

1 were relevant at the time?

2 A. No.

3 Q. Did you write that report?

4 A. No.

5 Q. The things that you testified to happening on direct
6 examination, whether or not they were in the report, did those
7 things actually happen?

8 A. Yes.

9 Q. Did your report include the fact that the defendant ran
10 away from you and ran out of the car when you were telling him
11 to shut the engine off?

12 A. No.

13 Q. Okay. Is your memory exhausted as to whether that detail
14 is in the report?

15 MR. ADAMS: Objection, your Honor.

16 THE COURT: Sustained.

17 BY MR. SRIVASTAVA:

18 Q. Did the defendant run?

19 A. Yes.

20 Q. And after you caught him and he was placed in handcuffs,
21 did he run again?

22 A. Did I run again? Yes, I ran back to check on Iesha.

23 Q. After you ran back to check on Iesha, do you know whether
24 or not the defendant ran from law enforcement a second time?

25 THE COURT: The question is whether you observed

1 that.

2 THE WITNESS: I didn't observe it.

3 THE COURT: Okay.

4 BY MR. SRIVASTAVA:

5 Q. At the time the defendant ran from you, had the firearms
6 been recovered from the laundry bag yet?

7 A. No.

8 MR. SRIVASTAVA: No further questions, your Honor.

9 THE COURT: Anything based on the redirect,
10 Mr. Adams?

11 MR. ADAMS: Very briefly, your Honor.

12 - - -

13 ANTHONY AGUIRRE, RECROSS-EXAMINATION

14 BY MR. ADAMS:

15 Q. Agent, did you ask Ms. Stanciel to go into her apartment?

16 A. No.

17 MR. ADAMS: Nothing further, Judge.

18 THE COURT: Anything based on that, Mr. Srivastava?

19 MR. SRIVASTAVA: Yes, your Honor.

20 - - -

21 ANTHONY AGUIRRE, FURTHER REDIRECT EXAMINATION

22 BY MR. SRIVASTAVA:

23 Q. Do you know if other agents on scene attempted to talk to
24 her?

25 A. I don't know that. I was not dealing with that.

1 MR. SRIVASTAVA: No further questions, your Honor.

2 THE COURT: The witness is excused. We are going to
3 do -- even though we started late, we still need to do a
4 break. There is one thing I need to address with the lawyers.
5 We are going to go until about 12:30. We'll break for lunch
6 at that point. We will take a 10-minute break.

7 (The jury leaves the courtroom.)

8 THE COURT: You can sit down. So I've looked at the
9 motion to reconsider, and completely aside from what's being
10 asked in there, I guess I have a concern about what I think
11 you're intending -- one of the things that I think you're
12 intending to introduce. So the person from BOP who is going
13 to authenticate the emails, when is that person -- is that
14 next, or is it coming up? Or --

15 MR. SRIVASTAVA: No, Judge. That person is available
16 at the MCC, but I think we can work on a stipulation just to
17 the foundation for those records.

18 THE COURT: So have you had a chance to look at the
19 motion to reconsider yet?

20 MR. ADAMS: I have, your Honor, this morning.

21 THE COURT: Okay. So let's talk -- let me tell you
22 the thing I have a concern about. So on page 4 -- I guess
23 it's attached as an exhibit, too. One of the email exchanges
24 has an email, if you read in chronological order at the
25 bottom, from Ms. Stanciel, May 1st, 2017, 3:51:22 p.m.: "Why

1 didn't I get no mail or pictures today? It's just the
2 beginning. Don't fall apart. God got you."

3 Then there is a response from Mr. Battiste at
4 5:21 p.m., same date. Then there is a response to that from
5 Ms. Stanciel at 9:00 o'clock that same date. No further
6 response, at least that I'm seeing, from Mr. Battiste after
7 that.

8 And there is a line in the last -- in other words,
9 the unresponded email from Ms. Stanciel that it sounds like
10 the government is intending to introduce to -- apparently to
11 help show that the firearm was Mr. Battiste's firearm. This
12 is the "leave me with your shit" line. Am I reading that
13 right?

14 MR. APPLEBY-BHATTACHARJEE: That's correct.

15 THE COURT: How is that not hearsay?

16 MR. APPLEBY-BHATTACHARJEE: Well, your Honor,
17 Ms. Stanciel's state of mind at the time of her plea colloquy
18 has been put before the jury.

19 THE COURT: Oh, I don't agree at all. Her state of
20 mind of her plea colloquy has not been put at issue at all.
21 Her statements at the plea colloquy were put in issue.

22 MR. APPLEBY-BHATTACHARJEE: And the statements to the
23 effect that the plea colloquy is silent as to whether she
24 stated that she was directed.

25 THE COURT: So I'm just going to tell you something.

1 When we had the sidebar yesterday about the plea colloquy,
2 there was an objection made to whether the plea colloquy would
3 go in. I overruled that objection because -- I think I
4 miscited. I think I said 804(b)(5). It's really 804(b)(3).
5 I said that was admissible. That went in, and then there were
6 further questions about, it didn't say this, it didn't say
7 that. There was no objection made to those questions, and I
8 don't think that you can use that as a basis to get this in,
9 besides which I don't think this impeaches.

10 A hearsay declarant can be impeached. That's what
11 Rule 806 says. I don't think this impeaches that. "Leave me
12 with your shit." It's more vague than the stuff we were
13 talking about before. So you would be -- you would be -- you
14 would be courting having to do all this over again if I let
15 that in. And I'm not going to let that in.

16 I understand that certain of the emails are, you
17 know, probably admissible -- I want to hear from Mr. Adams on
18 it -- to show residence at the house and whatnot, and that's
19 clearly been put in issue. But trying to draw an inference
20 out of this statement from --

21 So the full exchange is Mr. Battiste emailed back at
22 5:21, says: "Iesha, don't do that shit, bro." Then there's
23 an abbreviation, s-m-m-f-h. "You know how fucked up it is for
24 me to be out here right now. You talking about MF picture and
25 shit. What about our car? What about where the fuck ima

1 sleep?" I-m-a sleep. "Yo ass tripping, smmfh."

2 Then Ms. Stanciel's response is: "Let me know how
3 things work at the courthouse. If it come to it, go stay with
4 Tasha. You got to the 21st to get the car. Maybe something
5 will come up, IDK. What do you want me to do? I'm in jail
6 facing more charges. You in the world, DA world, with access
7 to whatever yo ass tripping, to leave me with your shit.
8 Remember, I can remember them words bright as day. I wish I
9 would, dot, dot, dot."

10 I mean, to allow you to argue -- to put that in and
11 argue that "leave me with your shit" means that's what he was
12 talking about, the gun, that doesn't even come close to piling
13 inferences upon inferences. That's piling speculation on
14 speculation. So you don't get to put that in.

15 And I've read the motion to reconsider. I'm not
16 persuaded. It's denied. Okay? So --

17 MR. APPLEBY-BHATTACHARJEE: I think there are two
18 issues that come out of that then, your Honor. There are
19 other emails that the government is tendering in that chain of
20 proof.

21 THE COURT: Are there issues on the other emails,
22 Mr. Adams? I mean, you can solve this problem by redacting
23 out the 9:00 o'clock email at the top of that one page. Are
24 there issues on the other emails?

25 MR. APPLEBY-BHATTACHARJEE: Would it be other than

1 the first statement, your Honor? Would the government be
2 permitted to say: "Let me know how things work out at the
3 courthouse," and then redact the rest?

4 THE COURT: Oh, I don't have a problem with that.
5 Yeah, right. You can -- if you need the "let me know how
6 things work out at the courthouse," because that involves the
7 eviction matter? Is that why?

8 MR. APPLEBY-BHATTACHARJEE: That's correct.

9 THE COURT: Okay.

10 MR. APPLEBY-BHATTACHARJEE: And the next day, there's
11 a notice of appearance filed by the defendant at the
12 courthouse.

13 THE COURT: That, I wouldn't require you to redact
14 unless Mr. Adams is about to persuade me that it shouldn't
15 come in.

16 MR. ADAMS: I would just for the record object,
17 Judge, that it's hearsay from Ms. Stanciel's statements.

18 THE COURT: A question of "let me know how things
19 work out" is not hearsay. It's asking him to do something.
20 That's not hearsay. It's not offered for its truth. It's
21 just offered to show that it's said.

22 So are there -- on the other emails, I guess they're
23 all attached here. The Bates stamp numbers are -- the last
24 four digits on each are 1150, 470 and 0115. Are there issues
25 on any of the other ones?

1 MR. ADAMS: Let me check really quickly.

2 THE COURT: Yeah.

3 MR. ADAMS: I would object to the 5/1/2017 at
4 11:36 a.m.

5 THE COURT: Okay. Let me read that. So it's not the
6 Mr. Battiste email, but the Stanciel email? 11:36 is from
7 Mr. Battiste to Ms. Stanciel.

8 MR. ADAMS: Yes.

9 THE COURT: You're objecting to that one?

10 MR. ADAMS: Yes.

11 THE COURT: Okay. On what ground?

12 MR. ADAMS: On relevance grounds, your Honor.

13 THE COURT: Okay. So let me just look at it in
14 context.

15 Okay. So the exchange here, there is an email from
16 Mr. Battiste on April 30th at 9:51 p.m. "I miss you more, and
17 you know that. Nobody came to buy nothing. That's the Feds.
18 I'm not even fucking with that shit no more because they
19 pissing me off. What exactly am I trying to do at the
20 courthouse?"

21 So what is the significance of the "nobody came to
22 buy nothing. That's the Feds. I'm not even fucking with that
23 shit no more because they pissing me off"?

24 MR. APPLEBY-BHATTACHARJEE: At this point, really,
25 we're looking at what exactly am I trying to do at the

1 courthouse. It lays foundation for his subsequent actions.

2 THE COURT: So you're going to have to redact out the
3 first two sentences. The rest of it I think is relevant.

4 "What am I trying to do at the courthouse?" Ms. Stanciel
5 tells him, go, tell them you have been served with a seven-day
6 notice, ask to file a motion for stay, tells him what to do.
7 And he basically responds to that. And, I mean, there is an
8 argument that all his response shows is that he is a God-awful
9 boyfriend -- but pardon my language -- but I think it's
10 relevant to show a connection with the house or with the
11 apartment.

12 So all you need to redact on this one, this is 470,
13 is the first two sentences of the email at the bottom. The
14 sentence that begins "I miss you," and the sentence that
15 begins "Nobody came to buy nothing." So you'd start it with
16 "What exactly am I trying to do?"

17 And the email 115, so that's the -- that's the one we
18 were just talking about. It's the one we were talking about
19 before. So I already told you about -- I told you what you
20 need to redact on 115. And on 1150, that's really the first
21 email that kind of sets up the whole thing about going to the
22 apartment. So I think that's all relevant too. And it's not
23 hearsay because she's telling him to do something.

24 MR. APPLEBY-BHATTACHARJEE: Just so I'm clear, your
25 Honor, and we'll have the redacted exhibit prepared, 1150

1 comes in as is.

2 THE COURT: In its entirety, correct.

3 MR. APPLEBY-BHATTACHARJEE: 470 comes in with the
4 redactions to the bottom email from Iesha Stanciel talking
5 about "SMH" --

6 THE COURT: Right.

7 MR. APPLEBY-BHATTACHARJEE: -- "I said I miss you,"
8 and the first two lines of Mr. Battiste's response above that.
9 And with those redactions -- with those redactions made, the
10 rest of the email comes in.

11 THE COURT: Correct.

12 MR. APPLEBY-BHATTACHARJEE: And the entirety of the
13 email on 115 except for the statement at the top email from
14 Ms. Stanciel starting "if it come to it" and ending with "I
15 wish I would, dot, dot, dot."

16 THE COURT: Right. So on the top email on 115, the
17 only thing that comes in is "let me know how things work at
18 the courthouse."

19 MR. APPLEBY-BHATTACHARJEE: So we will make those
20 redactions, your Honor. If that's the Court's rulings on the
21 admissibility of the underlying documents, I suppose I'd like
22 to speak with Mr. Adams as to whether we can stipulate as to
23 the authenticity of the emails.

24 THE COURT: Okay. That's fine. Go ahead and do
25 that.

1 MR. APPLEBY-BHATTACHARJEE: And if we can also
2 stipulate that that is the defendant's email address,
3 CameronBattiste@, and what's redacted is @icloud.com. We do
4 have jail calls that we could tender to establish what the
5 defendant was saying to Ms. Stanciel. So if we can just -- if
6 we can all beat all that, we can streamline this presentation
7 quite a bit.

8 THE COURT: As I understand it, s-m-m-f-h means
9 shaking my MF head. You probably already knew that.

10 MR. SRIVASTAVA: Judge --

11 THE COURT: You are all younger than me.

12 MR. SRIVASTAVA: While we are on break, this could
13 wait until later, but a couple other things we could raise.
14 Along the same lines, if we are able to work out a
15 stipulation, which I think we will, we would then seek
16 permission to recall Special Agent Ericks for the limited
17 purpose of putting those emails in.

18 THE COURT: Not a problem.

19 MR. SRIVASTAVA: Limit cross accordingly. And I
20 think we are agreeable to that, but we would like the Court's
21 permission.

22 THE COURT: That's fine.

23 MR. SRIVASTAVA: And then the second issue we wanted
24 to raise, your Honor, was in light of some of the issues
25 raised in the motion for reconsideration, if we would be

1 permitted to introduce a portion of Iesha Stanciel's plea
2 declaration, and I can walk the Court through exactly which
3 portion --

4 THE COURT: Why don't you talk about it.

5 MR. SRIVASTAVA: Okay.

6 THE COURT: I mean, it's been discussed. It may be
7 that there is no objection to it. So talk about what you want
8 to introduce. If you can't work it out, then we will talk
9 about it.

10 MR. SRIVASTAVA: Okay. Thank you, your Honor.

11 MR. ADAMS: Thank you.

12 (Short break.)

13 MR. SRIVASTAVA: Judge, just to be clear -- I'm
14 sorry, your Honor.

15 THE COURT: Go ahead.

16 MR. SRIVASTAVA: To answer your question more
17 precisely, with respect to the issue of whether we need a
18 custodian from the BOP, we have that issue worked out. We do
19 not have the plea declaration issue worked out yet. They're
20 talking about it.

21 THE COURT: That's the one I was asking you about.

22 MS. DeLEON: Thank you, Judge.

23 (The jury enters the courtroom.)

24 THE COURT: Everybody can have a seat. You can call
25 the next witness.

1 MR. SRIVASTAVA: Your Honor, at this time, the
2 government would like to call Special Agent Brian Wentz.

3 (Witness sworn.)

4 THE COURT: Have a seat. Make sure the mic is in
5 front of you.

6 You can go ahead.

7 - - -

8 BRIAN WENTZ, DIRECT EXAMINATION

9 BY MR. SRIVASTAVA:

10 Q. Good morning.

11 A. Good morning.

12 Q. Can you please state and spell your name for the record.

13 A. It's Brian Wentz; B-r-i-a-n, W-e-n-t-z.

14 Q. Can you tell us what you do for a living, sir?

15 A. I am a special agent with the FBI.

16 Q. Can you tell us about your educational background?

17 A. Educational?

18 Q. Sure.

19 A. I have a background in accountancy. I have a CPA license
20 out of Texas. And I'm a CFE, also a certified fraud examiner.
21 I've got my MBA in accounting, and I'm also on the evidence
22 response team at work. I specialize -- I used to specialize
23 in bank robberies. Worked on the violent crimes squad for
24 14 years, and currently I'm on a PC, public corruption squad
25 in the South Area.

1 Q. And you indicated that you worked violent crimes for
2 14 years with the FBI?

3 A. Yes.

4 Q. So back in April of 2017, were you assigned to a
5 particular unit at that time?

6 A. I was on the South Area 1 squad, violent crime squad.
7 Again, I was working bank robberies, but I assisted the squad
8 with other needs as necessary.

9 Q. And on the afternoon of April 7th, 2017, were you
10 assisting some other agents on your squad?

11 A. Yes. Yes, I was.

12 Q. What was the nature of that assistance you were providing?

13 A. There was an arrest warrant that Special Agent Mike Ericks
14 had, and he needed a squad assist on that date.

15 Q. And in order to execute that arrest warrant, do you know
16 if your partners went to a particular location?

17 A. Yes.

18 Q. Where did they go that afternoon?

19 A. In the afternoon -- it wasn't the first location we had
20 been to, but in the afternoon they had went to a location in
21 Willowbrook off of Route 83, an apartment complex.

22 Q. And do you know what it was that drew the agents to that
23 particular location, if you know?

24 A. I do not.

25 Q. And do you know who the arrest warrant was for?

1 A. It was for Iesha Staniel, I believe is her name.

2 Q. And can you tell us how you became involved in assisting
3 that afternoon?

4 A. That afternoon -- I had been out that morning. That
5 afternoon I was at the office, and I got a notification via
6 email from Agent Ericks that he needed assistance. They had
7 her located, and at that point, I left the office to go
8 assist.

9 Q. And what happened as you were traveling to the location
10 where you heard that your partners needed assistance?

11 A. I knew there were three people on the scene. I called
12 Anthony Aguirre, one of our task force officers, and asked
13 exactly where they were located as I was pulling into the
14 apartment complex. He was trying to describe where they were
15 as I was trying to figure out where I was located in relation
16 to them.

17 Q. Can you describe just generally what that apartment
18 complex looks like?

19 A. I'm not familiar with the whole entire area. There may be
20 multiple complexes together, but it was a very, very large
21 apartment complex. I probably drove past a dozen buildings
22 before I got to the back of the complex where they were
23 located.

24 Q. And what happened as you were in contact with Task Force
25 Officer Aguirre?

1 A. I could hear radio transmission that said something to the
2 effect of I see her coming out as he was talking to me on the
3 phone, and I told him I would call him back because I needed
4 to stop and get my protective vest on. And so I called him
5 back, and he didn't answer at that point.

6 Q. So at this point in time, you're going to assist your
7 partners. And you have heard him say something to the effect
8 of "She's coming outside"?

9 A. I heard that in the background over the radio.

10 Q. Okay. And let me just back up for a moment. As you're
11 going to assist your partners, are you looking for anyone at
12 that point other than Iesha Stanciel?

13 A. No.

14 Q. Do you know who Cameron Battiste is at that time?

15 A. At that point, no.

16 Q. Okay. So after you threw on your protective vest, what,
17 if anything, happened?

18 A. Again, I called Anthony Aguirre, the task force officer,
19 to get the exact location of where they were in relation to
20 where I was sitting at this point. And I noticed -- I watched
21 him run by at that point chasing somebody.

22 Q. You saw Task Force Officer Aguirre running by?

23 A. Yeah. He didn't answer his phone, obviously. And I saw
24 him running by.

25 Q. What did you do when you saw him running after somebody?

1 A. I jumped out of my car, and I observed a fight on the
2 ground at that point occurring between two other individuals.

3 Q. And who were the two individuals involved in the fight
4 that was occurring on the ground?

5 A. That was my Task Force Officer Brigitte Balcer, or
6 Buitron, and Iesha Stanciel.

7 Q. So what did you do when you saw that?

8 A. At that point I started running in that direction, and I
9 noticed that Agent Ericks was also chasing the male at that
10 point with Aguirre. And so I joined in the arrest attempt on
11 the ground with TFO Buitron.

12 Q. How did you assist in that arrest attempt?

13 A. We both secured her and handcuffed her at that point.

14 Q. After Ms. Stanciel was placed in handcuffs, what, if
15 anything, did you do?

16 A. I went -- she had her -- sorry. TFO Buitron had her
17 secured, so I walked over to where Agent Ericks was and asked
18 if I could assist him in any manner.

19 Q. And did he ask for your assistance?

20 A. Yes.

21 Q. What did he ask you to do?

22 A. To watch over Mr. Battiste at that point.

23 Q. And as you refer here today to Mr. Battiste, is that
24 someone you see here in court?

25 A. Yes, I do.

1 MR. ADAMS: Judge, we will stipulate the in-court
2 identification.

3 THE COURT: All right. It's stipulated he would
4 identify Mr. Battiste.

5 BY MR. SRIVASTAVA:

6 Q. So when Special Agent Ericks asked you to assist with the
7 defendant, what specifically was Special Agent Ericks asking
8 you to do?

9 A. Basically, just stay with him until we could figure out
10 who he was and why he was there.

11 Q. And can you describe whether or not the defendant was in
12 handcuffs at that point?

13 A. At that point, he was.

14 Q. So what specific steps -- excuse me -- did you take to
15 assist the rest of your squad at that point?

16 A. We walked over to the parking lot and set him down,
17 Mr. Battiste, sat him down. And I just began sitting with him
18 at that point.

19 Q. And were you trying to do anything at that point?

20 A. I was trying to figure out who he was and generally just
21 assist Mr. Ericks in any way I could at that point.

22 Q. As you were trying to identify who the defendant was, did
23 you tell him that he was going to be charged with any crimes?

24 A. No.

25 Q. Did you tell him that he was under arrest?

1 A. No.

2 Q. And in relation to the apartment building, where was he
3 situated?

4 A. It was kind of kitty-corner. So we were kind of on a curb
5 stop that was in front of the adjacent building, so it was
6 like a diagonal towards the building where I think that he had
7 exited from earlier.

8 MR. SRIVASTAVA: Your Honor, at this time I'd ask
9 permission to publish from the laptop what was previously
10 admitted into evidence as Government's Exhibit 9.

11 THE COURT: That's fine.

12 BY MR. SRIVASTAVA:

13 Q. Special Agent Wentz, does this photograph assist you in
14 describing where you and the defendant were located at this
15 point?

16 A. Yes, it does.

17 Q. And can you use your words and, if you would like, the
18 graphics on the screen to mark where you were.

19 A. Can I draw on the screen?

20 Q. You can. If you press --

21 THE COURT: That's fine. Just try it and see what
22 happens. It's good right now.

23 THE WITNESS: Okay.

24 THE COURT: Yeah.

25 BY MR. SRIVASTAVA:

1 Q. Okay. I see you've drawn a blue circle on the screen.

2 A. Yes.

3 Q. What does that blue circle mark?

4 A. That curb stop is where Mr. Battiste was sitting, and I
5 was standing with him.

6 Q. And as the defendant was sitting on that curb, were other
7 people around in the area?

8 A. Law enforcement-wise, no, but the residents of the
9 building were starting to -- they had been outside. They were
10 watching. People were gathering at that point.

11 Q. And as people were gathering, can you describe your
12 interactions with the defendant?

13 A. So, again, I was asking who he was. He had his wallet. I
14 was looking at his ID. His ID had a different hair style than
15 what he had currently, so I was questioning if that was really
16 him. But he wasn't really answering at that point.

17 In the meantime, he was -- I was standing in front of
18 him, so if he was sitting at the curb stop where I drew the
19 circle, he is sitting on the curb stop, I am standing in front
20 of him in the parking lot. And he is trying to look around me
21 at that point, communicating non-verbally with somebody. And
22 I was asking him what he was doing.

23 Q. When you asked the defendant what he was doing, did he say
24 anything?

25 A. Yes.

1 Q. What did he say?

2 A. He said that he wanted somebody to come get his debit card
3 because -- I don't recall the specifics, but maybe that he
4 owed them money. He wanted to get them money before he was
5 taken off.

6 Q. And who was in possession of his wallet and debit card at
7 that point?

8 A. I was holding it.

9 Q. Was he asking you to do anything with his debit card?

10 A. Not me specific. He wanted somebody to come down and get
11 it.

12 Q. When you saw him looking around you, did you look back and
13 try to determine who he was looking at?

14 A. Yes.

15 Q. And what did you see?

16 A. At this point -- may I draw on the picture again?

17 Q. You may.

18 A. There were multiple individuals on that balcony up there
19 that I saw as well as others. But that was the direction he
20 was looking and gesturing to.

21 Q. And can you describe what you saw up on the balcony?

22 A. I recall there were at least two black males up there.

23 Q. Okay. And how was the defendant -- you indicated he was
24 trying to communicate with him non-verbally. What did you see
25 the defendant doing?

1 A. He was gesturing with his head with a motion. May I?

2 Q. If you can demonstrate what you --

3 A. Demonstrate?

4 Q. -- mean by that, that might be helpful.

5 A. So if that's the balcony up there and this is the front of
6 the building, he was doing this, like gesturing for somebody
7 to come down is what I was assuming.

8 MR. ADAMS: Objection.

9 THE COURT: What he was assuming is stricken. The
10 jury is directed to disregard it. What you were doing, when
11 you say gesturing, you mean with his head.

12 THE WITNESS: With his head.

13 THE COURT: Okay. That's fine. Thanks.

14 Go ahead.

15 BY MR. SRIVASTAVA:

16 Q. And you indicated that he was gesturing with his head.
17 When he began that motion, where was he pointing his head?

18 A. When he began, he was pointing it at the persons on the
19 balcony.

20 Q. And when he completed that motion with his head, where was
21 his head pointing downwards towards?

22 A. To the -- can I draw on here?

23 Q. You can.

24 A. To the front, I guess these -- I'm not familiar with the
25 building.

1 MR. ADAMS: Objection, your Honor, as to
2 characterizations as to where he is pointing.

3 THE COURT: Well, why don't you rephrase the
4 question.

5 MR. SRIVASTAVA: Sure.

6 BY MR. SRIVASTAVA:

7 Q. What direction was he gesturing with his head?

8 A. In the direction of the doors of the building.

9 Q. So would that be down and to the left?

10 A. Yes.

11 THE COURT: The doors which is the middle of the
12 three circles there? Is that what you are talking about?

13 THE WITNESS: Yes. Correct.

14 THE COURT: Okay.

15 BY MR. SRIVASTAVA:

16 Q. And, again, because this is confusing with the three blue
17 circles, which circle indicates where the defendant is sitting
18 on the curb?

19 A. May I draw a number? 1?

20 Q. And then if you could draw a 2 where the men were on the
21 balcony.

22 A. I'm not good at this drawing.

23 3.

24 Q. And 3, the blue 3 indicates where you believe the
25 defendant was gesturing towards?

1 A. He was gesturing at the door, in that area, yes.

2 Q. At that point in time when you saw the defendant gesturing
3 in that manner, were you aware of a laundry bag or anything
4 else that was near the front door?

5 A. No.

6 Q. When you saw the defendant gesturing like that, what, if
7 anything, did you do?

8 A. I kept getting in his way, asking him to cut it out.

9 Q. What did the defendant do?

10 A. He kept looking around me, gesturing towards them, same
11 manner.

12 Q. About how many times did he do that?

13 A. At least ten.

14 Q. Did any of those people -- did you see any of those people
15 from the balcony ever come down?

16 A. I did not.

17 Q. And had anyone indicated to you at that point over the
18 radio that firearms had been recovered or anything like that?

19 A. No.

20 Q. So can you tell us what happened after the defendant
21 gestured up at the balcony and you did not see anyone come
22 down? What was the next thing that happened?

23 A. Next thing in the time line of events was I believe he was
24 complaining about his back hurting.

25 Q. And when he told you that his back was hurting, what did

1 you do?

2 A. I asked him to just remain there, and we would get things
3 figured out. But he continued to complain about his back
4 hurting and asked if he could stand up, stretch his back.

5 Q. When he asked to stretch his back, what, if anything, did
6 you say or do?

7 A. I allowed him to stand up and stretch his back.

8 Q. When the defendant stood up, what happened?

9 A. He took off running.

10 Q. After the defendant took off running, what did you do?

11 A. I caught up to him within a couple steps. He was
12 handcuffed. And I don't recall if he had shoes on at that
13 point or not. But I was able to catch up and grab the cuffs
14 with my right hand, and I wrapped my left hand around him
15 trying to stop him at that point. And he is much bigger than
16 me, and he was dragging me at that point. The only thing I
17 could do is I swept his legs with my left leg, and we went
18 down like a tree trunk, just slammed right down.

19 MR. SRIVASTAVA: No further questions, your Honor.

20 THE COURT: Mr. Adams.

21 - - -

22 BRIAN WENTZ, CROSS-EXAMINATION

23 BY MR. ADAMS:

24 Q. Good morning, Agent.

25 A. Good morning.

1 Q. So it's your story today that Mr. Battiste was gesturing
2 towards some people on a balcony?

3 A. That's what I observed, yes.

4 Q. And you told this jury just now that it was two
5 African-American males?

6 A. At least two.

7 Q. How old were they?

8 A. I couldn't see from that distance. They would probably be
9 in their 20s, I guess.

10 Q. How tall were they?

11 A. I have no idea.

12 Q. When did you go up to that apartment to interview them?

13 A. I did not.

14 Q. When did you look in the apartment, I guess, address
15 registry to find out which apartment it was?

16 A. I did not.

17 Q. When did you ask Mr. Battiste who were those people?

18 A. I did not.

19 Q. Agent Wentz, when you were preparing for this trial, did
20 you meet with the government, these two government
21 prosecutors?

22 A. Yes.

23 Q. How many times?

24 A. Once.

25 Q. And that was around February 5th, correct?

1 A. Correct.

2 Q. And that's in this building?

3 A. Yes.

4 Q. On the fifth floor?

5 A. Yes.

6 Q. And that was the first time you really met with these
7 agents -- with these government prosecutors, correct?

8 A. On this case, yes.

9 Q. Did you write any other reports in this case?

10 A. I believe so, yes.

11 Q. How many reports did you write in this case?

12 A. I believe just one on this instance.

13 Q. I'm sorry. Could you repeat the last part?

14 A. Just one in this instance.

15 Q. And was that report from February 5th?

16 A. I did not author a report on February 5th.

17 Q. What was the date of the report you authored?

18 A. I don't have the report in front of me. I couldn't tell
19 you.

20 Q. Well, on February 5th, you met with the agents -- with the
21 prosecutors, correct?

22 A. Yes.

23 Q. And this is the first time you told them about these
24 individuals on this balcony, correct?

25 A. Correct.

1 Q. And that was about a week before trial?

2 A. Correct.

3 Q. And you told this jury that you were assuming that

4 Mr. Battiste is gesturing towards a door?

5 THE COURT: I struck the assumption, so the jury

6 is --

7 No, don't answer that.

8 The jury is not considering that. I struck when he
9 testified about his assumption. There may be some other
10 things, but you'd want to rephrase that.

11 BY MR. ADAMS:

12 Q. Did Mr. Battiste know the people that he was gesturing to
13 on the balcony?

14 MR. SRIVASTAVA: Objection.

15 THE COURT: Rephrase the question.

16 BY MR. ADAMS:

17 Q. Did you ask Mr. Battiste if he knew the people he was
18 gesturing to?

19 A. No. He told me he was --

20 THE COURT: Hang on. No. Just answer the question
21 that's asked. Don't volunteer.

22 THE WITNESS: Sorry. Rephrase.

23 THE COURT: The remainder of the answer is stricken.

24 THE WITNESS: Can you repeat the question?

25 THE COURT: He already answered it no. That's the

1 answer. Ask another question.

2 MR. ADAMS: Judge, one moment.

3 (Brief pause.)

4 BY MR. ADAMS:

5 Q. You said that Mr. Battiste was communicating non-verbally.

6 Is that what you said?

7 A. Yes.

8 Q. How many times before April 7th did you interact with

9 Mr. Battiste?

10 A. Zero.

11 Q. How many times during April 7th did you have a chance to

12 discuss -- strike that, your Honor.

13 How many times during your encounter with

14 Mr. Battiste did you talk to him?

15 A. Multiple.

16 Q. Multiple times.

17 And he had said he needed his debit card, correct?

18 A. Correct.

19 Q. And you told this jury that you saw his ID?

20 A. Yes.

21 Q. And his ID had a name on it?

22 A. Correct.

23 Q. And did it have an address on it?

24 A. It was a state ID. It has to have had an address on it,

25 correct.

1 Q. And did you check to see if that address was the same
2 address as this Willowbrook apartment?

3 A. I did not.

4 Q. Was it the same address?

5 A. I don't recall.

6 Q. Do you still have that ID?

7 A. I do not.

8 Q. Where is that ID now?

9 A. I have no clue.

10 Q. Did you check to see if Mr. Battiste had a valid driver's
11 license?

12 A. No.

13 Q. Whose car -- who was registered to that car, the blue
14 Dodge?

15 A. I don't know.

16 Q. Was it Ms. Stanciel?

17 A. I don't know.

18 Q. Did you or your brother or sister agents search that car?

19 A. No. I did not.

20 MR. ADAMS: Judge, one moment, please.

21 THE COURT: Sure.

22 (Brief pause.)

23 BY MR. ADAMS:

24 Q. Agent Wentz, thank you.

25 How close were you to Special Agent Ericks at the

1 time you were standing next to Mr. Battiste?

2 MR. SRIVASTAVA: Objection.

3 THE COURT: What's the basis for the objection?

4 MR. SRIVASTAVA: Just as the foundation. It's not
5 clear as to which.

6 THE COURT: Rephrase it.

7 BY MR. ADAMS:

8 Q. After Mr. Battiste was handcuffed and sitting on the
9 curb --

10 THE COURT: There you go.

11 BY MR. ADAMS:

12 Q. -- how close were you to Special Agent Ericks?

13 A. Within 20 feet, maybe. Not close.

14 Q. Could you hear him talking?

15 A. I could tell he was on the telephone. I couldn't hear
16 what he was saying.

17 Q. Could you see Ms. Stanciel?

18 A. In the distance, yes.

19 Q. Could you hear her?

20 A. I could hear the fighting, yes.

21 Q. Could you hear anyone speaking?

22 A. No.

23 Q. Now, how many people were milling around the parking lot
24 at this time?

25 A. Not many. I would say three, four, five, something like

1 that, in the parking lot.

2 Q. Did you interview any of those people?

3 A. I did not.

4 Q. Did you ask them if you could interview them?

5 A. No.

6 Q. Did you ask Mr. Battiste which apartment unit on the
7 balcony he was gesturing to?

8 A. No.

9 Q. Did you review any reports in this case written by your --
10 by other agents?

11 A. I did not.

12 Q. You did not.

13 MR. ADAMS: One moment.

14 (Brief pause.)

15 MR. ADAMS: Judge, nothing further. Thank you.

16 THE COURT: Redirect.

17 - - -

18 BRIAN WENTZ, REDIRECT EXAMINATION

19 BY MR. SRIVASTAVA:

20 Q. Special Agent Wentz, were you the case agent for this
21 case?

22 A. No, I was not.

23 Q. You were asked a question on cross-examination about the
24 fact that you first told the attorneys on the case about this
25 gesturing movement on February 5th, 2019. Do you recall that?

1 A. Yes.

2 Q. Had you ever met with either of the government attorneys
3 about this case prior to that day?

4 A. No.

5 Q. You indicated when you first arrived on scene, you saw
6 Task Force Officer Aguirre chasing after the defendant. Do
7 you recall that?

8 A. Yes.

9 Q. To your knowledge, at the time that that first chase was
10 taking place, had the firearms been recovered yet?

11 A. I had no knowledge of that, no.

12 Q. You indicated that you then assisted watching the
13 defendant on the curb; is that correct?

14 A. Subsequently, yes.

15 Q. Subsequent to when he ran away and was caught?

16 A. Yes.

17 Q. And you indicated that when he was sitting on the curb, he
18 asked to stand up and stretch his back?

19 A. Yes.

20 Q. And you also testified that he then ran again?

21 A. Yes.

22 Q. At the time he ran that second time in handcuffs, to your
23 knowledge, had the firearms been recovered yet?

24 A. No, they had not.

25 MR. SRIVASTAVA: No further questions, your Honor.

1 THE COURT: Anything based on that, Mr. Adams?

2 MR. ADAMS: Briefly, your Honor.

3 - - -

4 BRIAN WENTZ, RECROSS-EXAMINATION

5 BY MR. ADAMS:

6 Q. This arrest occurred April 2017, correct?

7 A. Correct.

8 Q. And the first time anyone from the government's
9 prosecutors contacted you was February 2019, correct?

10 A. Correct.

11 MR. ADAMS: Nothing further, Judge.

12 THE COURT: All right. Anything else?

13 MR. SRIVASTAVA: No, your Honor.

14 THE COURT: You can step down.

15 Please call the next witness.

16 MR. SRIVASTAVA: Your Honor, the government would
17 call Daniel Lien to the stand next.

18 (Witness sworn.)

19 THE COURT: Have a seat. Make sure the mic is right
20 in front of you.

21 All right.

22 - - -

23 DANIEL LIEN, DIRECT EXAMINATION

24 BY MR. SRIVASTAVA:

25 Q. Good morning, sir. Can you please introduce yourself to

1 the ladies and gentlemen of the jury and spell your name for
2 the record.

3 A. My name is Daniel Lien. My last name is spelled L-i-e-n.

4 Q. How are you employed, sir?

5 THE COURT: Let me just make a slight adjustment
6 here.

7 Go ahead.

8 BY MR. SRIVASTAVA:

9 Q. How are you employed, sir?

10 A. I am a physical scientist, forensic examiner in the latent
11 print operations unit at the FBI laboratory.

12 Q. How long have you been a latent print examiner?

13 A. A little over 15 years.

14 Q. Can you tell us what your job responsibilities are as a
15 latent print examiner?

16 A. As a forensic examiner, I examine items of evidence to
17 determine if there are any latent prints present on those
18 items. I'll process that evidence with chemicals, examine
19 them with forensic light sources and powders to develop any
20 prints that might be present on those items.

21 If I develop items, I will -- or excuse me. If I
22 develop latent prints, I will compare those prints developed
23 to known individuals or search them against the latent print
24 database. I will provide a report of my findings and will
25 testify to those findings in court when requested to do so.

1 Q. Did you examine any physical evidence in this case?

2 A. Yes, I did.

3 Q. Did you form any opinions about the evidence that you
4 examined?

5 A. Yes, I did.

6 Q. Now, sir, would it assist you to have a copy of your notes
7 with you as you testify?

8 A. Yes, it would.

9 MR. SRIVASTAVA: Your Honor, I'd like to approach the
10 witness and give him what's been marked as Government's
11 Exhibits 18-A and 18-B just for identification.

12 THE COURT: That's fine.

13 THE WITNESS: Thank you.

14 BY MR. SRIVASTAVA:

15 Q. Sir, before we get to the conclusions you drew in this
16 case, I'd like to talk to you a little bit about your
17 qualifications. Okay?

18 A. Yes.

19 Q. Can you tell us about your educational background.

20 A. I have a bachelor's of science from the South Dakota
21 School of Mines in Rapid City, South Dakota. It's a geology
22 with an emphasis in paleontology.

23 Q. So did you have a career prior to becoming a forensic
24 scientist with the FBI?

25 A. Yes, I did.

1 Q. Just generally speaking, what was that?

2 A. I was a -- while I was going to school, I performed
3 paleontology work for the South Dakota School of Mines, and I
4 conducted digs and researches in the South Dakota Badlands.

5 Q. As a forensic scientist conducting latent print
6 examinations, can you tell us if you received any formal
7 training?

8 A. Yes, I have.

9 Q. What formal training have you received?

10 A. I completed an approximately two-year training program at
11 the FBI laboratory in the area of friction ridge analysis,
12 comparison and development. That training consisted of
13 classroom lectures, laboratory exercises, oral boards, moot
14 courts. I conducted case examinations under the supervision
15 of a mentor. During my training, I examined hundreds of items
16 of evidence and performed over 150,000 comparisons.
17 Throughout the training program, we were tested at various
18 stages to be able to demonstrate mastery of the subject
19 material.

20 At the end of the training, we had a comprehensive
21 examination that consisted of questions in the latent field
22 area as well as comparison exercises.

23 Q. You mentioned in the course of your training being tested.
24 Did you pass all of the tests that you were given?

25 A. Yes, I have.

1 Q. You also mentioned -- I think you said you performed over
2 150,000 examinations. Was that in the course of the two-year
3 training program or in your 15 years as an examiner?

4 A. That was just during the training program.

5 Q. Have you continued to perform examinations since the
6 conclusion of your training program?

7 A. Yes, I have.

8 Q. Since you completed your training program with the FBI,
9 have you enrolled in any additional training courses
10 subsequent to that?

11 A. During the time that I have been with the latent print
12 unit, we participate in what's called continuing education.
13 It generally takes place on an annual basis, but sometimes it
14 can be more or less, but we try and stay abreast of all the
15 current developments in the science as well as stay abreast of
16 any new techniques and things that we might be able to utilize
17 for our examinations.

18 Q. Mr. Lien, have you previously testified in court on the
19 topic of fingerprint analysis?

20 A. Yes, I have.

21 Q. Approximately how many times?

22 A. About a half dozen times.

23 Q. When was the most recent time?

24 A. Last February.

25 MR. SRIVASTAVA: Your Honor, I would ask at this

1 point for permission to proceed.

2 THE COURT: Do you want to question him on his
3 qualifications now?

4 MR. ADAMS: No, subject to cross.

5 THE COURT: You can proceed.

6 BY MR. SRIVASTAVA:

7 Q. Okay. So now I would like to shift gears and talk with
8 you about fingerprints. Okay?

9 A. Okay.

10 Q. To begin with, can you just tell us what a latent
11 fingerprint is.

12 A. On the palms of the hands, there are raised portions of
13 ridges known as friction ridges. These ridges have little
14 openings that run along them called pores which will exude
15 perspiration. Then as an individual goes through their day if
16 they come in contact with their face or any other material,
17 that could adhere to those ridges. And then when an object is
18 touched, that material can be left on that object. That's
19 known as a latent print. Latent prints are often fragmentary
20 and require chemical processes, forensic light sources, or
21 powders to be visualized.

22 Q. How is that different, sir, from a known fingerprint?

23 A. A known fingerprint is the intentional reproduction of the
24 friction ridge. The friction ridge is present on the end
25 joints of the finger. And that's generally accomplished by

1 applying a thin layer of black printer's ink and then rolling
2 that from nail to nail on a contrasting background such as a
3 standard fingerprint card.

4 Q. Can you tell us about the basic factors that come into
5 play when you're using fingerprints as a means of
6 identification?

7 A. Fingerprints are a reliable means of identification
8 because of two main factors, and that's prints are persistence
9 and uniqueness. Fingerprints are persistent in that they form
10 during fetal development and remain constant throughout an
11 individual's life, barring any damage, permanent scarring, or
12 disease that may cause the regenerative layer to effect a
13 change until death and decomposition.

14 Fingerprints are unique in that they're formed during
15 fetal development, and they're influenced by not only genetic
16 but by environmental factors and physical forces that take
17 place during the womb, so that the friction ridge arrangements
18 are unique even on -- from identical twins, from areas on the
19 same finger, small areas, or even from one hand to the next.

20 Q. So in order to conduct a fingerprint comparison, can you
21 tell us what the basic process is?

22 A. We have a methodology that we refer to as ACE, and ACE is
23 an acronym. It stands for analysis, comparison, and
24 evaluation. The first thing I'm going to do is examine the
25 latent print, determine if the print is suitable to be used

1 for a comparison. I'm looking at what we refer to as three
2 levels of detail. The first thing I'm going to do is take
3 note of the overall pattern type or the ridge flow of the
4 print. Fingerprints come in three basic categories: Arches,
5 where the ridges enter one side, make a slight rise, wave, and
6 exit out the opposite side. Fingerprints also can be loose
7 where the ridges come in one side, make a recurve, and enter
8 out the same side that they entered on. Or they can be a
9 circular type pattern, which we refer to as a whirl.

10 The next thing I'm going to do is look at the
11 overall -- the ridge characteristics. So ridges aren't
12 constant. Some ridges will end. We would call that an ending
13 ridge. Some ridges will divide or bifurcate, which we call a
14 bifurcation. And then sometimes you'll see little ridge
15 segments which appear as a period at the end of a sentence
16 which are hard dots.

17 The third level of the detail I'm looking at is the
18 actual ridges on the ridges themselves, the widths, any type
19 of shapes along the ridge edges, as well as pores, their size,
20 shapes, and spacings.

21 After I do an analysis on the latent print, I'm going
22 to do that same analysis on my known print. Excuse me. After
23 I finish my analysis, I'll move on to the comparison phase.

24 Q. What is the comparison phase?

25 A. During the comparison, I will perform a side-by-side

1 comparison to the ridge ending events that are present in the
2 latent print compared to the known print. And it's not -- I'm
3 not just looking at the minutia themselves, but it's the
4 minutia, its orientation, its location in the fingerprint, as
5 well as the relationships that those -- the spatial
6 relationships they have with other minutia that's present in
7 those prints.

8 Q. So you described -- I'm sorry. Was there more to your
9 answer, sir?

10 A. No. Go ahead.

11 Q. You described how you compared known prints to latent
12 prints. Can you tell us how you examined evidence for the
13 presence of latent prints?

14 A. Well, after I'm done with the comparison, that's when we
15 do an evaluation. The evaluation is where we determine if the
16 print originated from the same source, if it is excluded from
17 that source, or if there was not enough information to reach a
18 conclusive decision. That's during the evaluation of the --
19 the evaluation phase of the ACE methodology.

20 Q. Okay. And having told us about the ACE methodology, can
21 you tell us about how you examined evidence for the presence
22 of latent prints?

23 A. Yes. So evidence that we received, we generally break
24 down into two categories. Either it's a porous item such as
25 this piece of paper where the print is actually absorbed into

1 the item or a non-porous item such as this picture where if I
2 touch the top of this, there is a chance that I'm going to
3 leave a print on the surface of this item.

4 We'll start with the non-porous items. The first
5 thing I'm going to do is conduct a visual examination. I use
6 a white light looking at it obliquely to see if I can see any
7 prints without applying any type of chemicals or anything.
8 It's just the evidence as is. And it's important to note,
9 too, that in between each of these steps, if we do detect a
10 latent print, that's documented. It's generally photographed
11 before we move on to the next step.

12 Q. So you told us about the visual test that you will
13 perform. Were you describing a process for a porous or
14 non-porous?

15 A. Non-porous.

16 Q. Okay. And is the process generally the same, or does it
17 differ quite a bit for porous and non-porous?

18 A. It's the same. It starts out the same, but then they
19 diverge.

20 Q. So if you could, maybe start by telling us the common
21 steps to both. So you indicated there's a visual examination.
22 Is that for porous and non-porous objects?

23 A. Yes, for both.

24 Q. What's --

25 A. That would be for both.

1 Q. What's the next examination that you perform?

2 A. The next examination would be a forensic light source
3 examination. Basically what I'm doing is I'm looking at the
4 items of evidence with forensic light sources, ultraviolet
5 lights, 450 nanometer blue light, or a forensic laser. And
6 I'm looking to see if there's any what we call inherent
7 fluorescence. That is any type of fluorescence that's present
8 without us putting a forensic dye stain or something like that
9 on the item.

10 Q. What other tests do you perform?

11 A. So after those two, that's where non-porous and porous
12 items diverge. After -- sticking with the non-porous, after
13 my forensic light source examination, I'm going to conduct
14 what's called super glue fuming. And basically I take the
15 items of evidence and put it into one of our glue chambers.
16 It's a microprocessor-controlled piece of equipment with a
17 premeasured amount of glue for volume. We bring it up to
18 approximately 70 percent humidity. And then once it
19 reaches -- the hot plate reaches the temperature, we will put
20 the glue on there so it volatilizes. Those fumes will adhere
21 to the residue that might be present on the items.

22 After that exam, after I'm done gluing, then I will
23 do a visual exam again, and I will take it into our forensic
24 light source room and look at it under a device that we call
25 the RUVIS, it's generally detected after a super glue fuming

1 process. It allows me to visualize prints that might not be
2 visible because of multi colored backgrounds or textured
3 surfaces, that type of thing.

4 And then after the super glue, I'm going to use a
5 chemical dye stain that I will put on that item, and that dye
6 stain is designed to fluoresce under ultraviolet, under the
7 blue light, and under the laser, the forensic laser. And so I
8 will conduct an examination with that to see if there's any
9 prints present on that item.

10 Q. So I think you have now described five tests for us. The
11 visual examination, the forensic light source examination, the
12 RUVIS examination, super glue fuming, and the chemical R.A.M.
13 examination?

14 A. Yes.

15 Q. Does that cover all of the examinations you conducted in
16 this case?

17 A. Yes, it does.

18 Q. Okay. Can you tell us what specific objects you tested
19 for the presence of fingerprints in this case?

20 A. I processed a rifle, a pistol, two magazines, a plastic
21 bag, and six cartridges.

22 Q. And did you perform the same tests on each of those items?

23 A. Yes, I did.

24 Q. And were those the five tests you told us about?

25 A. Yes, they were.

1 Q. Okay. Are you aware, sir, of whether any of these items
2 were tested in any other portions of the FBI laboratory?

3 A. I had received them after they had gone through our DNA
4 unit's examination.

5 Q. I am going to now hand you Government Exhibit 1-A, which
6 is -- you can tell us if it's one of the objects that you
7 tested. Okay?

8 And if you would, sir, I'm going to ask you to put on
9 the rubber gloves. And if you could open up Government
10 Exhibit 1-A, sir, and tell us if you recognize that item.

11 A. Yes, I do.

12 Q. How do you recognize it?

13 A. It's the lab number that I examined, the evidence number
14 that we received, and then the item number, the laboratory
15 number, and my initials appear on the firearm.

16 Q. Okay. And is that an assault rifle, Government
17 Exhibit 1-A?

18 A. It is a assault style rifle, yes.

19 Q. Okay. Did you perform each of the five tests you
20 described on this piece of evidence?

21 A. Yes, I did.

22 Q. What were the results of that examination?

23 A. I did not develop any latent prints on this item.

24 Q. Here's what I want to ask you, sir: Are there any
25 characteristics of Government Exhibit 1-A that make it

1 difficult to retrieve latent fingerprints?

2 A. Generally, we do have a difficult time recovering prints
3 from firearms in general.

4 Q. Why is that?

5 A. Just the way that the items are manufactured, the
6 coatings, the gluing, and the material that is -- they're
7 constructed out of tend to resist fingerprints. It's
8 something that the manufacturer uses to retard rusting. Also,
9 the portions where you would generally hold the weapon tend to
10 be texturized to improve the grip and control, and so it's
11 really difficult to develop prints off of that.

12 Q. Sir, being careful not to point that at anybody, I'm just
13 going to ask you if you can show the ladies and gentlemen of
14 the jury what you mean by the particular surfaces that are
15 difficult to retrieve a print from.

16 THE COURT: Just so the jury knows, the firearm has
17 been completely -- both of them have been completely disabled.
18 So they are not operable.

19 THE WITNESS: The textured guard, the pistol grip,
20 but the entire weapon has been glued. And so we generally
21 have a difficult time developing prints off of it. Plus, it's
22 a non-porous item, so prints that would be on this item would
23 be sitting on the surface, which makes them susceptible to
24 being wiped off. So how the evidence -- the item was stored
25 or handled, if it was cleaned, you know, things like that

1 would be -- would wipe off any prints that might be present on
2 it.

3 BY MR. SRIVASTAVA:

4 Q. Sir, I'm going to approach you with Government's
5 Exhibit 2-A and trade. If I can ask you to take a look at
6 Government's Exhibit 2-A and tell us if you recognize it.

7 A. Yes, I do. My initials appear on the firearm, and it also
8 bears the laboratory number and the evidence number.

9 Q. What is Government's Exhibit 2-A?

10 A. It's a handgun.

11 Q. What tests did you perform on that handgun?

12 A. The visual examination, the forensic light examination,
13 the super glue fuming examination, and then the R.A.M.
14 process.

15 Q. Can you tell us what the results of those examinations
16 were?

17 A. I did not develop any latent prints on this item.

18 Q. And can you tell us what, if any, characteristics of that
19 firearm make it difficult to retrieve prints?

20 A. It's the same as the rifle, the textured grip, just the
21 way the weapon is manufactured to basically resist
22 fingerprints. It's to keep them from rusting or things like
23 that. And then the operation of how the weapon would be
24 utilized. It would make it very difficult to develop prints
25 on a weapon like this.

1 Q. Sir, I'm going to ask you to put that one back in the box
2 before I take it back from you.

3 I'm now handing you what's previously been entered
4 into evidence as Government's Exhibit 15, which consists of
5 six cartridges and a magazine. Can you tell us if you
6 recognize those items?

7 A. Yes, I do.

8 Q. How do you recognize Government's Exhibit 15?

9 A. My initials appear on the magazine. And I cannot see my
10 initials on the cartridges, but the evidence number appears on
11 the packaging. And then my initials appear across the seal of
12 the packaging.

13 Q. Did you test those cartridges and that magazine for the
14 presence of fingerprints?

15 A. Yes, I did.

16 Q. How did you do so?

17 A. Using the same techniques, the visual light source -- the
18 visual examination; the forensic light source; the super glue
19 fuming; and the chemical dye stain, the R.A.M. process.

20 Q. What were the results of that examination?

21 A. I did not develop any latent prints on this item -- these
22 items.

23 Q. Is there anything about the magazine that's in
24 Government's Exhibit 15 that makes it difficult to recover
25 prints?

1 A. Again, just like the firearm, just the way that they're
2 manufactured. And then the motion of inserting the magazine
3 into the pistol. If there's a print on the surface, there
4 would be a chance that that would be wiped off.

5 And then the same way with the cartridges. They're a
6 smaller surface area, so the chance of leaving a usable print
7 on them is going to be small. But the action of uploading a
8 magazine with them, that would have a chance of wiping off any
9 prints that might be present on this.

10 Q. And finally, sir, I'm going to show you a bag that
11 contains Government's Exhibit 16. Can you take a look at this
12 and let us know if you recognize it?

13 A. Yes. My initials appear on the top of the magazine, and
14 it bears the evidence number that was assigned to this
15 particular piece of evidence.

16 Q. And is that the magazine that went with the assault rifle?

17 A. Yes.

18 Q. Okay. Did you perform any tests on it?

19 A. Yes, I did.

20 Q. What tests?

21 A. I performed the visual examination; the forensic light
22 source examinations; the super glue fuming process; and the
23 chemical by stain process, R.A.M.

24 Q. And, again, did you retrieve any prints after conducting
25 all of those tests?

1 A. No, I did not.

2 Q. Did you prepare a report to document all these findings,
3 sir?

4 A. Yes, sir, I did.

5 Q. Now, sir, how many times would you say you've tested a
6 firearm for the presence of fingerprints?

7 A. I've tested -- I've examined thousands of weapons, rifles,
8 pistols, various forms of firearms, including magazines,
9 cartridges, and roughly about 10 percent of the time, I'll
10 develop a print off of those.

11 Q. And is that roughly the same for firearms, cartridges and
12 magazines?

13 A. Generally, the research shows that there's a little higher
14 probability of getting a print off of a magazine. I think the
15 highest that I've seen was about 12 percent. But it's lower
16 for the cartridges.

17 Q. Now, did the circumstances in which these items are
18 packaged or carried affect the likelihood of retrieving
19 fingerprints?

20 A. Yes, it is possible.

21 Q. Okay. So, if, for example, you learned that one of these
22 items had been packaged inside a sheet, would that impact the
23 likelihood of recovering fingerprints?

24 A. It would have a -- there would be a chance that if there
25 was a print present on that item, that during the packaging or

1 wrapping in the sheet or the transportation of that item, if
2 it's allowed to slide back and forth per se. If there was a
3 print on it, it could have the potential of wiping it off.

4 Q. Does it surprise you that you were not able to recover
5 fingerprints from any of these items you examined?

6 A. Again, it's very rare that we get prints off of firearms,
7 so the fact that I did not develop any prints on these items
8 did not surprise me.

9 Q. So is it possible that the defendant touched these
10 firearms, cartridges, and magazines and you would still not
11 recover any fingerprints?

12 A. Yes, it is.

13 Q. And just to be clear then, is it possible for someone to
14 touch an item and not leave a fingerprint?

15 A. Yes, it is.

16 MR. SRIVASTAVA: No further questions, your Honor.

17 THE COURT: Mr. Adams. We are going to start. We
18 will go for about five minutes.

19 - - -

20 DANIEL LIEN, CROSS-EXAMINATION

21 BY MR. ADAMS:

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. So you just told this jury that about 10 percent of the
25 time you develop a fingerprint on a firearm, correct?

1 A. Yes.

2 Q. But you test thousands of weapons in your career, did you
3 say?

4 A. Um-hmm, yes.

5 Q. How many weapons a month does the FBI test?

6 A. I don't have any idea. A lot.

7 Q. How many do you test a month?

8 A. Our cases aren't -- yeah, I couldn't tell you exactly how
9 many a month.

10 Q. Is there an average?

11 A. No. I probably will receive a case every two, three weeks
12 that might be related to a firearms. In some cases you'll get
13 a single weapon; some cases you'll get hundreds of weapons.
14 It just varies.

15 Q. And you're in the latent print unit?

16 A. That's correct.

17 Q. How many other individuals in the latent print unit that
18 test firearms -- or that test for fingerprints? I'm sorry.

19 A. I believe right now we have about 30 plus examiners in our
20 unit.

21 Q. So testing for fingerprints, it goes without saying, is a
22 commonly accepted practice for the FBI?

23 A. Yes, it is.

24 Q. So you expect to find fingerprints on items that you test?

25 MR. SRIVASTAVA: Objection.

1 THE COURT: Overruled.

2 You can answer.

3 THE WITNESS: Well, when I process an item of
4 evidence, I really have no idea what I'm going to find, so I
5 try -- I don't go in with any preconceived, I'm going to get a
6 print off of this item, or I'm not going to get a print off of
7 this item. We are just given a case. The evidence that we
8 have is what we have, and then we conduct our processes on
9 that. If we develop prints, then we proceed to the
10 comparison. If we don't, we'll issue our reports.

11 BY MR. ADAMS:

12 Q. And if there's no print on an item, that's not indicative
13 that someone -- scratch that.

14 The fact that you can't find a print on something
15 like a firearm, that doesn't tell you whether the person
16 touched it or not, correct?

17 A. That is correct.

18 Q. The fact that there is no fingerprint on a firearm isn't
19 indicative as to whether someone wiped off a fingerprint,
20 correct?

21 A. That is correct.

22 Q. So merely finding no fingerprint on a firearm isn't
23 indicative of possession of a firearm, correct?

24 A. The only knowledge that I have is from the result of my
25 examination, so I don't -- I don't know what happened to that

1 weapon before it was received in the laboratory. I can only
2 testify to what I determine during my examination.

3 Q. Is there a way to tell whether a fingerprint was present
4 on a firearm and then was wiped off?

5 A. Sometimes you'll see where a print was there, and I can't
6 say whether that was actually a fingerprint or if somebody was
7 wearing gloves like these and had something on the glove that
8 touched the item. But sometimes you can see that the item was
9 handled and no usable print was left on it.

10 Q. And that didn't happen here, did it?

11 A. No.

12 MR. ADAMS: Your Honor, could we take a break now?

13 THE COURT: Let me see you at sidebar for a second.

14 (The following proceedings were had at sidebar outside the
15 hearing of the jury:)

16 THE COURT: I was really kind of hoping to try to
17 finish this guy. How much more you got?

18 MR. ADAMS: There is one other issue, probably 10 or
19 15 minutes.

20 THE COURT: Seriously? Okay. If you're telling me
21 10 or 15 minutes, we'll stop.

22 (The following proceedings were had in open court in the
23 presence and hearing of the jury:)

24 THE COURT: Okay. We're going to break for lunch,
25 and we'll resume at 1:30. Don't discuss the case with each

1 other or with anyone else.

2 (The jury leaves the courtroom.)

3 THE COURT: Because you are being cross-examined, you
4 can't discuss your testimony. You understand?

5 Okay. See you at 1:30.

6 (The trial was adjourned at 12:30 p.m. until 1:30 p.m. of
7 this same day and date.)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA, |) | Docket No. 17 CR 220-2 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| CAMERON BATTISTE, |) | Chicago, Illinois |
| |) | February 12, 2019 |
| |) | 1:30 o'clock p.m. |
| Defendant. |) | |

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MATTHEW F. KENNELLY, AND A JURY
VOLUME 2-B

APPEARANCES:

For the Plaintiff: UNITED STATES ATTORNEY'S OFFICE
BY: MR. ANKUR SRIVASTAVA
MR. SAURISH APPLEBY-BHATTACHARJEE
219 S. Dearborn St., Suite 500
Chicago, Illinois 60604

For the Defendant: LAW OFFICES OF JOSHUA B. ADAMS, PC
BY: MR. JOSHUA B. ADAMS
53 West Jackson Boulevard, Suite 1515
Chicago, IL 60604
(312) 566-9173

LAW OFFICE OF ALANA M. DeLEON
BY: MS. ALANA MARIA DeLEON
1016 West Jackson Boulevard
Chicago, IL 60607
(312) 531-0888

Court Reporter: MS. CAROLYN R. COX, CSR, RPR, CRR, FCRR
Official Court Reporter
219 S. Dearborn Street, Suite 2102
Chicago, Illinois 60604
(312) 435-5639

1 (The following proceedings were had in open court outside
2 the presence and hearing of the jury:)

3 THE COURT: The record should reflect that
4 Mr. Battiste isn't here. I think we are just talking about
5 scheduling.

6 MR. ADAMS: Judge, downstairs in the cafeteria during
7 lunch, I was in line with Ms. DeLeon, and we were getting some
8 pretzels or something. And one juror said, "Oh, those are
9 good" to me and Ms. DeLeon. We ignored her. I just want to
10 put it on the record, your Honor. I don't think it's
11 anything.

12 THE COURT: Is the suggestion that the juror telling
13 you that something is good suggests she is trying to poison
14 you?

15 MR. ADAMS: I think so, probably.

16 THE COURT: There is a 50/50 chance.

17 MR. ADAMS: It is.

18 THE COURT: It's the cafeteria.

19 MR. APPLEBY-BHATTACHARJEE: We certainly appreciate
20 Mr. Adams' candor.

21 THE COURT: Thanks for putting it on the record.

22 MR. SRIVASTAVA: Judge, given how we left it, do you
23 want him to just be on the stand?

24 THE COURT: He should, yeah. Just make a record of
25 it.

1 (Short break.)

2 (The following proceedings were had in open court in the
3 presence and hearing of the jury:)

4 THE COURT: All right. Everybody can have a seat.

5 Mr. Adams, do you have any more questions for

6 Mr. Lien?

7 MR. ADAMS: No further questions, your Honor.

8 THE COURT: Anything on redirect?

9 MR. SRIVASTAVA: No, your Honor.

10 THE COURT: Thank you. You're excused.

11 THE WITNESS: Thank you.

12 THE COURT: You can call the next witness.

13 MR. SRIVASTAVA: Your Honor, at this time the
14 government calls Jasmine Mattox to the stand.

15 THE COURT: Come right up here.

16 (Witness sworn.)

17 THE COURT: All right. You can go ahead.

18 - - -

19 JASMINE MATTOX, DIRECT EXAMINATION

20 BY MR. SRIVASTAVA:

21 Q. Good afternoon, ma'am.

22 A. Good afternoon, sir.

23 Q. Can you please tell the ladies and gentlemen of the jury
24 your name and also spell it for the record.

25 A. My name is Jasmine Mattox; J-a-s-m-i-n-e, M-a-t-t-o-x;

1 Jasmine Mattox.

2 Q. How old are you, ma'am?

3 A. I am 25 years old.

4 Q. Can you tell us without giving us an address just
5 generally where you live?

6 A. Burr Oak in Berkeley. Berkeley, Illinois.

7 Q. And do you know a person named Iesha Staniel?

8 A. Yes.

9 Q. How do you know Iesha Staniel?

10 A. She's my aunt.

11 Q. And have you known her your whole life?

12 A. Yes, sir.

13 Q. Can you describe your relationship with Ms. Staniel?

14 A. We are very close. She is my aunt on my dad's side, so I
15 don't see her very often, unless I, like, go over there
16 sometimes. But we have a good relationship.

17 Q. And as you have gotten to know Ms. Staniel over the
18 years, do you know if she was dating anybody?

19 A. Yes.

20 Q. What's the name of the person that she was dating?

21 A. His name Trub. That's his nickname. That's what I called
22 him.

23 Q. Trub, like T-r-u-b?

24 A. Yes.

25 Q. And can you tell us if you've met Trub in person before?

1 A. Yes, sir.

2 Q. About how many times?

3 A. I could say at least about six, seven, eight times.

4 Q. And over the past how many years do you know of Iesha
5 Stanciel dating Trub?

6 A. A couple of years, about ten years at the most, I believe.
7 I'm not sure, but that's kind of an accurate answer for me as
8 I know of.

9 Q. Okay. Do you know if Ms. Stanciel and Trub have any
10 children together?

11 A. Yes.

12 Q. Do you know how many?

13 A. Two, I believe.

14 Q. And do you know Trub's actual name?

15 A. I know he has a son. I believe his son is named after
16 him. I believe his name is Christopher. His last name, I'm
17 not sure.

18 Q. Now, I would like you to look around the courtroom and
19 tell us if you see Trub here in court.

20 A. Yes. He is over there with the white button-up next to
21 the guy with the red tie on my left side.

22 THE COURT: All right. Indicating Mr. Battiste.

23 BY MR. SRIVASTAVA:

24 Q. Can you tell us before today when was the last time you
25 saw Trub?

1 A. The last time I seen Trub was at a party at my grandma
2 house. I believe it was like two, about two years ago.

3 Q. And do you remember about what time of the year it was?

4 A. It was in the summertime because it was real hot.

5 Q. So around the summer of 2017. Is that fair?

6 A. Correct.

7 Q. Okay. And when you saw Trub on that occasion, was
8 Ms. Stanciel with him?

9 A. Yes.

10 Q. Can you describe their interactions?

11 A. A very good interaction. Laughing, joking, very close
12 matter.

13 Q. Did you get the impression the last time you saw Trub that
14 he was dating or in a relationship with Ms. Stanciel?

15 A. Yes, sir.

16 Q. Now, I want to fast-forward ahead to the winter of 2017.
17 I'm sorry. The winter of 2016, rather.

18 So let me go back. Did you help Ms. Stanciel get an
19 apartment?

20 A. Yes, sir.

21 Q. Okay. And do you remember around what time of year that
22 was?

23 A. It was in December of 2017, December or November. It was
24 around the wintertime because it was snowing real bad out. I
25 remember.

1 Q. Okay. So you remember it was snowing and it was November
2 or December of 2017 when you helped Ms. Stanciel get an
3 apartment?

4 A. Yes.

5 Q. Okay. And I think my last question was confusing. I'm
6 going to go back and ask you again. That party where you saw
7 Trub and Ms. Stanciel together, you said that was in the
8 summer?

9 A. Yes.

10 Q. Was that in the summer before you helped Ms. Stanciel get
11 an apartment or the summer after?

12 A. Way before then.

13 Q. Okay. So if you helped Ms. Stanciel get an apartment in
14 November or December of 2016, the party would have been that
15 summer of 2016?

16 A. Yes.

17 Q. Okay. Can you tell us why you helped Ms. Stanciel obtain
18 an apartment?

19 A. I helped her obtain an apartment because she told me she
20 was homeless. She didn't have nowhere to go. She was living
21 in and out of her car, which I did witness that. She did have
22 a whole bunch of clothes inside her car. I got the apartment
23 for her so she can have somewhere to stay because she did told
24 me she didn't have nowhere to go. So that's the reason why I
25 got the apartment for her. It was being nice as a niece to

1 get an apartment for her in my name.

2 Q. And how was the apartment selected?

3 A. She selected it. I didn't know anything about the area or
4 anything like that. I'm not from over there at all.

5 Q. So you offered to help Ms. Stanciel get an apartment, and
6 then she chose one. What did you do next?

7 A. After she chose one, we went to see the apartment, and she
8 liked the apartment. And we went to get the agreement, and we
9 signed the lease. I signed the lease for her. And after I
10 signed the lease for her, I handed her over the keys so she
11 had the right to the apartment. And after that, I never been
12 back to the apartment before, and that was the last time I had
13 seen Iesha after that.

14 Q. Okay. So I want to just go back and go over what you just
15 told us a little bit more slowly. Okay?

16 So you indicated that you signed a lease to help
17 Ms. Stanciel get an apartment?

18 A. Yes, sir.

19 Q. When you signed that lease, did you have any intention of
20 living there?

21 A. No, sir.

22 Q. Who did you understand would be living there?

23 A. Iesha Stanciel.

24 Q. And if you know, do you know whether anyone else was going
25 to live with her?

1 A. No, not that I know of, sir.

2 Q. Did you fill out any paperwork in addition to the lease
3 itself?

4 A. Yes, I did. I did -- I filled out the paperwork.

5 Q. Okay. So I'm going to show you what's been marked as
6 Government's Exhibit 21 for purposes of identification. Okay?
7 I'm going to ask you to take a look at this and let us know if
8 you recognize that document.

9 A. Yes, I recognize the document.

10 Q. And what is that?

11 A. It's a parking permit application.

12 Q. And is this a parking permit application you filled out
13 when you signed the lease paperwork?

14 A. Yes, sir.

15 Q. Is there a date on that form?

16 A. Yes.

17 Q. What's the date?

18 A. December 15th, 2016.

19 Q. Is there a signature on that form?

20 A. Yes, sir.

21 Q. And whose signature is on that form?

22 A. My signature, sir.

23 Q. And does this appear to be a true and accurate copy of the
24 parking permit application you filled out?

25 A. Yes, sir.

1 Q. I'm also going to show you what's been marked as
2 Government's Exhibit 22. Can you tell us if you recognize
3 that document?

4 A. Yes, I recognize this document, sir.

5 Q. What is it?

6 A. The intercom phone entry system.

7 Q. We are going to talk about that more in a moment. But do
8 you see where it says "resident name"?

9 A. Yes.

10 Q. What name is listed there?

11 A. Jasmine Mattox.

12 Q. And does this appear to be a true and accurate copy of the
13 intercom phone entry system form that you filled out?

14 A. Yes.

15 MR. SRIVASTAVA: Your Honor, at this time I move to
16 admit Government's Exhibits 21 and 22 into evidence.

17 MR. ADAMS: No objection.

18 THE COURT: They are admitted.

19 (Above-mentioned exhibits were received in evidence.)

20 MR. SRIVASTAVA: May I publish?

21 THE COURT: That's fine.

22 BY MR. SRIVASTAVA:

23 Q. So, Ms. Mattox, I'm first showing you what you just looked
24 at, which was Government's Exhibit 21. And do you see where
25 it says there "parking permit application" at the top?

1 A. Yes.

2 Q. And I'm just going to read the first line aloud and ask
3 you to follow along. "In order to park a vehicle in the
4 parking lot of Hinsdale Lake Terrace Apartments, a parking
5 permit sticker must be displayed at all times on the bottom,
6 passenger's side of the front windshield of the vehicle."

7 Did I read that correctly?

8 A. Yes.

9 Q. And so what did you understand this form to be for?

10 A. The parking permit application was stating in order to
11 park at the residence, you have to have a parking sticker.

12 Q. Okay. And do you see your signature there dated
13 December 15, 2016?

14 A. Yes.

15 Q. And now do you see under that it says name, Jasmine
16 Mattox; building and unit number, 14-114?

17 Do you see that?

18 A. Yes.

19 Q. And right below that, do you see where it says "car
20 information"?

21 A. Yes.

22 Q. Can you read aloud for the ladies and gentlemen of the
23 jury what the make of the car is for which you're applying for
24 a permit?

25 A. 2013 Dodge Durango.

1 Q. What color is listed?

2 A. Black.

3 Q. Is that your car?

4 A. No.

5 Q. Back in December of 2016, whose car was that?

6 A. Iesha Stanciel's.

7 Q. Do you see a license plate number there?

8 A. Yes.

9 Q. What's the license plate number that's listed?

10 A. 305T709.

11 Q. And as best as you know, is that the license plate number
12 for Iesha Stanciel's Dodge Durango?

13 A. Yes, sir.

14 Q. Who provided this information?

15 A. Iesha Stanciel.

16 Q. And why is it that you got a permit for a car that
17 belonged to Iesha Stanciel?

18 A. Because Iesha Stanciel was staying at the residence, and
19 it was her vehicle. So in order for her to park her car at
20 the residence, she needed a vehicle sticker for her car.

21 Q. Did you own a car back in December of 2016?

22 A. No, sir.

23 Q. And I'm going to now show you Government Exhibit 22. Do
24 you see where it says "intercom phone entry system" at the
25 top?

1 A. Yes, sir.

2 Q. And then right below that do you see where it says in the
3 first paragraph: "When a person comes to visit you, they will
4 press your apartment number on the intercom system. The
5 system will ring your phone. Once you have decided to let
6 that person in, press 9 on your phone, and the door will
7 open."

8 Did I read that correctly?

9 A. Yes.

10 Q. So what did you understand this form to be?

11 A. In order for someone to come inside your building, they
12 have to press the intercom number to get inside.

13 Q. And the intercom would then call a particular phone
14 number?

15 A. Yes.

16 Q. Do you see below that where it says resident name?

17 A. Yes.

18 Q. And is that your name listed?

19 A. Yes, sir.

20 Q. Under that, do you see where it says "phone number for
21 intercom"?

22 A. Yes.

23 Q. And there is a phone number listed?

24 A. Yes.

25 Q. Is that your phone number?

1 A. No, sir.

2 Q. Was that your phone number in December of 2016?

3 A. No, sir.

4 Q. Whose phone number was that in December of 2016?

5 A. Iesha Stanciel.

6 Q. How do you know that?

7 A. Because that's the number that I would reach her out of in
8 the past. That's her number.

9 Q. And, again, why is it that her number was listed on this
10 form instead of yours or anyone else's?

11 A. Because she lived at the building. I don't. So they
12 can't get in contact with me because I don't live there. They
13 have to call her phone in order to get let in because she's
14 the one who is staying there.

15 Q. And to the best of your knowledge, did Iesha Stanciel move
16 into that apartment?

17 A. Yes.

18 Q. Do you know who else lived with her at that apartment?

19 A. No.

20 Q. Did you ever go to see her at that apartment?

21 A. No.

22 Q. After you went with Iesha Stanciel and signed the lease,
23 did you ever go back to that apartment?

24 A. No.

25 Q. And that apartment, was that the apartment in Willowbrook,

1 Illinois?

2 A. Yes.

3 Q. And, ma'am, was it the apartment located at 10 South 481
4 Ivy Lane in Willowbrook?

5 A. Yes.

6 MR. SRIVASTAVA: May I have just a moment, your
7 Honor?

8 THE COURT: Sure.

9 (Brief pause.)

10 BY MR. SRIVASTAVA:

11 Q. Now, ma'am, after you signed the lease for the apartment,
12 did you learn what the management company was that managed
13 that apartment complex?

14 A. You said did I learn? What do you mean by that?

15 Q. Did you at some point learn that there was a management
16 company that managed the apartment complex?

17 A. No.

18 Q. Okay. Let me ask you this: Later on in 2017, did you
19 learn that there were eviction proceedings against the
20 occupants of the apartment building for which you had signed a
21 lease?

22 A. Yes, I did learn that, sir.

23 Q. How did you learn that?

24 A. I went down to DuPage for a case, and I gave them my
25 Social Security number. And they said I had two cases. And I

1 asked them why did I have two cases here. They said for
2 eviction in DuPage. And right off the back of my head, I knew
3 that it was for that apartment. And they gave me the address
4 and told me to find it through the apartment. And that's how
5 I found out.

6 Q. So let me back up. When you helped Ms. Stanciel get this
7 apartment by signing the lease, what was your understanding as
8 to who would be paying the rent?

9 A. Iesha Stanciel would be paying the rent.

10 Q. And did you --

11 A. And with the help of her mother also.

12 Q. Okay. And based on what you learned when you went to the
13 DuPage County courthouse, do you know if that happened?

14 A. No, apparently it didn't.

15 Q. Ma'am, what else do you recall about the eviction
16 proceedings themselves?

17 A. The eviction proceedings, there was a balance of \$3,000
18 that I owed. Apparently she didn't even pay none of the rent
19 that I know of. So all the months that she was living there,
20 the rent didn't get paid from knowledge of what they told me
21 down at DuPage.

22 MR. SRIVASTAVA: No further questions, your Honor.

23 THE COURT: Mr. Adams.

24 - - -

25 JASMINE MATTOX, CROSS-EXAMINATION

1 BY MR. ADAMS:

2 Q. Good afternoon, Ms. Mattox.

3 A. Good afternoon.

4 Q. You had talked earlier about a party in the summer of
5 2016. Do you remember talking about that?

6 A. Yes.

7 Q. Where was that -- where was that party?

8 A. At my grandmother's house on Cranberry Lane.

9 Q. What town is that in?

10 A. It was in the summertime.

11 Q. What town is Cranberry Lane in?

12 A. Aurora.

13 Q. Aurora.

14 And you mentioned someone named Trub?

15 A. Yes.

16 Q. That's Mr. Battiste.

17 Where was he living at the time?

18 A. That, I don't know.

19 Q. Where was Mr. Battiste living at the time that you got
20 this apartment for your aunt?

21 A. Apparently I don't know. I don't remember him getting an
22 apartment with us at all. He wasn't there, and I have no
23 knowledge of him even living there until after the fact when
24 my auntie said that he was there. Other than that, I didn't
25 have no knowledge at all.

1 Q. Now, I want to talk to you about this eviction case you
2 just mentioned to the jury. That was against you and your
3 mother, correct?

4 A. No, not my mother.

5 Q. You and Ms. Stanciel?

6 A. Yes.

7 Q. Sorry. I apologize.

8 And that was for back rent due on the apartment in
9 Willowbrook, correct?

10 A. Correct.

11 Q. Because nobody has been paying the rent?

12 A. Correct.

13 MR. ADAMS: Judge, may I have one moment?

14 THE COURT: Sure.

15 MR. ADAMS: Nothing further, your Honor.

16 THE COURT: Any redirect?

17 MR. SRIVASTAVA: No, your Honor.

18 THE COURT: You are excused.

19 THE WITNESS: Thank you.

20 THE COURT: You can call the next witness.

21 MR. APPLEBY-BHATTACHARJEE: Yes. The government
22 calls Tiffany Smith, your Honor.

23 (Witness sworn.)

24 MR. APPLEBY-BHATTACHARJEE: May I proceed, your
25 Honor?

1 THE COURT: That's fine. Do you have that set up how
2 you need to?

3 MR. APPLEBY-BHATTACHARJEE: It is plugged in.

4 THE COURT: Okay. All right.

5 - - -

6 TIFFANY L. SMITH, DIRECT EXAMINATION

7 BY MR. APPLEBY-BHATTACHARJEE:

8 Q. Good afternoon, ma'am.

9 A. Good afternoon.

10 Q. Would you please state and spell your name for the record.

11 A. My name is Tiffany Smith, spelled T-i-f-f-a-n-y, last
12 name, S-m-i-t-h.

13 Q. Ms. Smith, are you currently employed?

14 A. I am. I'm a forensic examiner in the DNA casework unit of
15 the FBI laboratory.

16 Q. How long have you been employed as a forensic examiner
17 with the FBI's DNA casework unit?

18 A. Since August of 2010, so for almost nine years.

19 Q. Would you briefly describe for the members of the jury
20 your job responsibilities.

21 A. Sure. As a forensic examiner, it is my job to manage a
22 case. So when a case comes into the DNA casework unit that
23 requires DNA testing, I will review the incoming paperwork and
24 determine what types of tests are required. I will then
25 direct a team of biologists to perform that testing in the

1 laboratory. Once that testing is complete, I will review the
2 data, make any comparisons as necessary, write a report, and
3 then testify, if needed.

4 Q. Did you conduct comparisons of DNA samples in this case
5 with respect to Defendant Cameron Battiste?

6 A. I did, yes.

7 Q. Before we talk about your procedures and findings here,
8 let's provide the members of the jury some more information
9 about your educational background and qualifications. Would
10 you briefly describe your educational background as it relates
11 to your current job?

12 A. I have a bachelor's of science degree from West Virginia
13 University in forensic and investigative sciences. I also
14 have a master's degree in biology, also from West Virginia
15 University.

16 Q. While you were in school getting those degrees, did you
17 have any kind of internship position with a forensic
18 laboratory?

19 A. I did. While in my undergraduate, I worked at a forensic
20 laboratory, it was the Connecticut State Forensic Laboratory,
21 as an intern for three months. And then while in graduate
22 school, I worked as a teaching assistant for three years where
23 I taught forensic DNA or biology lab work as well as basic DNA
24 courses.

25 Q. Would you briefly describe the professional training you

1 have received in forensic DNA analysis?

2 A. Sure. Once I graduated in 2010 from West Virginia
3 University, I was hired directly by the FBI laboratory. I was
4 hired into the nuclear DNA unit at that time. We are now the
5 DNA casework unit. In that unit I went through a year and a
6 half training program where I worked alongside qualified
7 forensic examiners performing the same duties I currently
8 perform under direct supervision. I also worked on items of
9 evidence in the laboratory. They were mock items of evidence
10 so that I could understand the lab processes that were done on
11 items. I took a series of oral Board Examinations and moot
12 court exercises, and then I took a competency test at the end
13 of that training, which I passed and was deemed qualified at
14 that time.

15 Q. Do you have continuing education requirements as part of
16 your current job function?

17 A. I do. Yearly, I'm required to take continuing education
18 courses through either going to conferences or reading
19 articles or attending meetings, and this is done every single
20 year as part of our quality system.

21 Q. And do you also have continuing certification or
22 qualification requirements?

23 A. Every year I'm required to take two proficiency tests, and
24 a proficiency test is a test provided by an outside company
25 where the results are known. And the purpose of this test is

1 to perform the tests that we do at the FBI laboratory under
2 our own protocols and determine what those results are. We
3 then send our results out to that proficiency test provider.
4 They grade essentially our tests and deem that we are still
5 producing reliable results. And I'm required to do that every
6 year, twice a year.

7 Q. And are you current with your continuing education
8 requirements?

9 A. I am, yes.

10 Q. Are you current with your continuing certifications?

11 A. The proficiency test, yes.

12 Q. Have you recently attended any conferences or symposia or
13 forensic DNA analysis?

14 A. I did. In 2018, I attended the International Human
15 Identification Symposium in Phoenix, Arizona.

16 Q. Do you provide training on forensic DNA analysis to
17 investigators in the field?

18 A. I do. Not as much anymore. Now we have other individuals
19 that provide that training. I do have my own trainees that
20 follow me. And I observe their work, and I help assist them
21 to become qualified themselves. I also do provide training to
22 our evidence response team and senior team leaders
23 occasionally to explain to them how DNA should be properly
24 collected and packaged so that it is shipped to the laboratory
25 and maintains its integrity once it gets to the lab.

1 Q. Does the FBI laboratory where you work have its own
2 accreditation requirements?

3 A. We do. We are accredited. In addition, the DNA casework
4 unit follows the quality assurance standards for forensic DNA
5 testing laboratories.

6 Q. Based on your training and experience, are the methods for
7 forensic DNA analysis used at the FBI laboratory consistent
8 with generally accepted methods in the forensic scientific
9 community?

10 A. Yes, they are.

11 Q. Over the course of your tenure with the FBI, can you
12 approximate how many items of evidence for which you've
13 conducted the forensic DNA analysis?

14 A. It's well into the thousands.

15 Q. Have you previously testified about your opinions on DNA
16 examinations in court?

17 A. Yes, I have.

18 Q. Approximately how many times?

19 A. I believe this would be about 42 times in those 8 years.

20 MR. APPLEBY-BHATTACHARJEE: Your Honor, may I
21 proceed?

22 THE COURT: Do you want to question her on her
23 qualifications?

24 MS. DeLEON: On cross, your Honor.

25 THE COURT: Okay. You can proceed.

1 BY MR. APPLEBY-BHATTACHARJEE:

2 Q. Let's start with first principles. What's DNA?

3 A. DNA stands for deoxyribonucleic acid, and it's our
4 hereditary material. We receive half of our DNA from our
5 mother and half of our DNA from our father. And it controls
6 not only what we look like physically but also all the
7 different chemical processes going on within the body.

8 Q. Why is DNA significant for forensic analysis?

9 A. DNA is found within ourselves, which are the building
10 blocks of our body. So we have DNA in our skin cells, blood
11 cells. Males have it in their sperm cells. And because of
12 that, when people come in contact with items, they potentially
13 will leave that DNA behind on those items, which we can then
14 process forensically to determine if DNA can be recovered.
15 And then we can use that for comparison purposes against known
16 individuals where we have their DNA profile collected directly
17 from them.

18 Q. Does one particular person have the same DNA throughout
19 his or her body?

20 A. No. DNA is unique to an individual with the exception of
21 identical twins. Identical twins do have identical DNA. Over
22 99 percent of our DNA is the same, and that's what makes us
23 human. It's why we have arms, legs, nose, mouth. However,
24 that 1 percent of DNA that varies is why we look different
25 from one another. We focus for forensic DNA testing on a very

1 small portion of that 1 percent. We focus on regions that
2 differ in their length between individuals, and these are
3 called short tandem repeats. And that's what we forensically
4 test in the FBI laboratory.

5 Q. And so other than identical twins, using the methodology
6 that you described, are you able to generate unique DNA
7 profiles for individuals?

8 A. We are able to obtain DNA profiles from evidence, whether
9 that be from one individual or multiple individuals. And then
10 we are then able to compare it to other individuals.

11 Q. So let's talk about that DNA forensic process. Can DNA be
12 forensically recovered from an inanimate object?

13 A. It can, yes.

14 Q. Could you provide some examples of objects from which you
15 could recover DNA for forensic testing purposes?

16 A. You can recover DNA from almost anything. It just depends
17 on whether an individual has come in contact with that item.
18 And if they have come in contact with that item, for how long.
19 Or DNA can be deposited in other means, such as sneezing on an
20 item. You can leave behind saliva that contains DNA.

21 Anything that I touch, such as this microphone, if I
22 touch this microphone, then I could potentially be leaving
23 skin cells behind that contain DNA, if an individual is
24 injured and are bleeding, they could leave blood behind at a
25 scene, which could be processed forensically as well.

1 Q. So one of the ways you described DNA could be left behind
2 is by touching something. I'd like to focus on that. What
3 factors impact whether DNA is left behind when somebody
4 touches an object?

5 A. There are a lot of factors. The first is going to be what
6 is the object. A smooth object is going to be more difficult
7 for DNA to stay on than a textured surface where skin cells
8 might get trapped on the item. The length of time an
9 individual comes in contact with an item could have an effect.
10 So if I touch something very briefly, I may only leave a few
11 skin cells behind. If I touch something for a long period of
12 time, I might leave more skin cells behind.

13 How that touch occurs, if it's a brief, just a touch,
14 versus a rubbing, that could affect. Also, individuals differ
15 in the amounts of DNA they leave behind. Some people leave a
16 lot of DNA behind when they touch an item. Other people leave
17 little DNA behind. So there's a lot of factors that could
18 potentially result in getting different results from items.

19 Q. Could whether an item has been cleaned impact whether DNA
20 that may otherwise have been left behind can be recovered?

21 A. Yes, that is one possibility.

22 Q. How about the age of an item?

23 A. Yes. That is another possibility. If DNA is on an item
24 for a long period of time, in pristine conditions, it can last
25 for years. However, if the item is subjected to extreme heat,

1 moisture, humidity, sunlight, it could break down the DNA and
2 you may not obtain DNA any longer. And, also, again, if an
3 item is cleaned, it could be wiped away or removed.

4 Q. Are you familiar with the term "degraded" when it's used
5 to describe DNA?

6 A. Yes. Degraded is the breakdown of DNA over time or
7 through some type of environmental condition or chemical. So
8 it is when DNA that is on an item is no longer recovered
9 because it has been broken down or broken into many pieces.

10 Q. Does a DNA profile change as the underlying DNA gets
11 degraded?

12 A. No, the profile doesn't change. You'll still get the same
13 profile if you get a profile. Degradation, all that occurs is
14 you're actually just breaking down the DNA so that you are no
15 longer able to detect it. So, for instance, if a person's DNA
16 profile is a 1014, you may only see the 10. You might miss
17 that 14 because it's broken down. But it won't turn to a 915.

18 Q. And in certain circumstances, can wiping an object impact
19 whether DNA can be recovered from it?

20 A. It's possible if you wipe an object it could, again,
21 remove some of the DNA that's left behind potentially.

22 Q. If an object is handled by multiple people, can that
23 impact whether DNA can be recovered from an item?

24 A. Yes. So when more than one individual comes in contact
25 with an item, we typically will get a mixture of DNA from that

1 item. That's when either skin cells or some other cell is
2 left behind by different people. We see a mixture of DNA from
3 that item. Sometimes if you have one person that contributed
4 the majority of the DNA on that item, you may not see the
5 other people. So it really depends on the specifics of the
6 case. All cases are slightly different.

7 Q. Now, we've talked about recovering DNA from objects in the
8 abstract. In certain circumstances, can DNA be recovered from
9 firearms?

10 A. Yes, it can.

11 Q. And in certain circumstances, is the DNA recovered from a
12 firearm suitable for comparison to other samples of known DNA?

13 A. Yes, it can be.

14 Q. And does that sometimes include degraded DNA that might be
15 recovered from a firearm?

16 A. Yes, that is possible.

17 Q. Compared against other objects, is it generally easier or
18 harder to recover DNA from a firearm?

19 A. Again, it depends. All firearms are different. Sometimes
20 we don't get any DNA from that firearm. Sometimes we get full
21 profiles. Traditionally, if an item has a body fluid, such as
22 blood, semen, or saliva, we get more DNA from that item
23 because body fluids contain a lot of DNA. Whereas skin cells
24 may or may not be left behind when a person comes in contact
25 with that item.

1 Q. Let's talk about the process of recovering DNA from a
2 firearm. What's the first step?

3 A. The first step is a DNA collection. That's where we take
4 a moistened swab that is moistened with sterile water. And we
5 swab all the textured portions of that firearm. This is to
6 try to pick up any skin cells that might have been trapped in
7 those textured areas. This, again, is called a DNA
8 collection. Then we add chemicals and heat to that
9 collection. This will allow us to break open those cells that
10 contain DNA, releasing the DNA into that tube or the solution.

11 We will then quantify the amount of DNA we are able
12 to obtain. This is when we estimate how much DNA we are able
13 to obtain from a sample. We then amplify the locations of
14 interest. So, again, over 99 percent of our DNA is the same.
15 We don't want to look at those regions. So we go through an
16 application process where we only amplify the locations of the
17 DNA that vary, and even only a small subset of those
18 locations.

19 Lastly, we run the DNA through a separation technique
20 that separates the DNA pieces out by their size, and this will
21 generate a DNA profile, which I can then use for comparison
22 purposes.

23 Q. So for the jury's benefit, I just want to break this into
24 the steps and the process. So you start with the swab. Is
25 that fair?

1 A. Yes. We start with the firearm specifically, and then we
2 will swab that firearm. And then we continue the process with
3 the swab.

4 Q. And then the next step in the process is called
5 extraction; is that right?

6 A. That is correct.

7 Q. And following that is quantification?

8 A. Yes, that's correct.

9 Q. And then amplification?

10 A. Yes.

11 Q. And lastly separation?

12 A. That's correct.

13 Q. Is the underlying DNA altered during this process of
14 extraction, quantification, amplification, and separation?

15 A. The DNA itself is not altered. We just make millions of
16 copies of the locations of interest.

17 Q. And at the end of this four-step process of extraction,
18 quantification, amplification, and separation, are you able to
19 generate a DNA profile?

20 A. Yes. If there is DNA to begin with on the item, yes.

21 Q. And what, if anything, does developing such a DNA profile
22 allow you to do as a forensic examiner?

23 A. As a forensic examiner, I will first interpret that DNA
24 profile from that item. So I will determine is male DNA
25 present? Is female DNA present? Is it potentially a mixture

1 of both male and female DNA? I will then determine was one
2 person on that item, or are there multiple people on that
3 item? If there are multiple people, how many people am I
4 seeing? I do this first. I do this interpretation
5 independently, and then I will do any comparisons to known
6 individuals if I have samples from them.

7 And, typically, this is through a cheek swab or a
8 blood sample that we obtained directly from a person where we
9 then will process that evidence -- or excuse me -- that known
10 individual. And we will generate a DNA profile, and I will
11 compare them side by side.

12 Q. And so we'll come back to that comparison step, but as we
13 are talking about generating the DNA profile from DNA
14 recovered from a firearm, based on your training and
15 experience, are there instances in which more than one
16 person's DNA can be recovered from firearms?

17 A. Yes. It's very common to see more than one individual on
18 a firearm.

19 Q. As part of your analysis of DNA extracted from a firearm,
20 you talked about looking to see if there were multiple
21 contributors. Is that fair?

22 A. Yes, that is correct.

23 Q. Now, where there are multiple contributors to DNA
24 recovered from a firearm, is it possible to estimate the
25 relative amounts of DNA belonging to each contributor?

1 A. It is. Once we generate a DNA profile and after I make
2 that interpretation, I will use a software package called
3 STRmix where I will enter the profile into that package. Once
4 it is into that software package, it will estimate how much
5 DNA is from each contributor. It is an estimate, though. It
6 is not an exact number.

7 Q. And is use of the STRmix program to generate such
8 contributor proportion estimates, is that something that's a
9 generally accepted practice in the DNA forensic sciences?

10 A. Yes, it is.

11 Q. Now, before we get to the topic of comparisons, I just
12 want to stop right here and talk about what your job is and
13 what your job isn't. Your job function is determining whether
14 DNA is on an object. Is that fair?

15 A. Yes, that is correct.

16 Q. Are you able to tell when DNA got on an object?

17 A. I am not, no.

18 Q. Are you able to tell how DNA got on an object?

19 A. No, I am not.

20 Q. Is that even part of your job description?

21 A. It is not, no.

22 Q. Are you familiar with the term "secondary transfer"?

23 A. I am, yes.

24 Q. So would you please provide a brief explanation of what
25 secondary transfer is.

1 A. Secondary transfer is when DNA gets on an object through
2 indirect contact. So, for instance, if I touch this
3 microphone stand and then I walk away and somebody else comes
4 in and also touches that microphone stand, they may never have
5 come in contact with me, but they may have picked up some of
6 my skin cells onto their own hands because they touched an
7 object I have also touched. So direct contact is when I touch
8 an item and I leave my DNA behind; secondary is when someone
9 else comes in and picks up my DNA from that item.

10 Q. Are there, based on your training and your experience, any
11 generally understood limitations on when DNA can be
12 secondarily transferred?

13 A. There are. There's a lot of research on secondary
14 transfer. Traditionally, secondary transfer is much easier
15 with liquid, body fluid; such as, blood, saliva, semen. And
16 if you think about it, if you have ketchup and you put ketchup
17 on a plate and it's wet ketchup, it's very easy to dip your
18 french fry into that ketchup and transfer the ketchup onto
19 that french fry because it's in a liquid state.

20 When it's dried, it's much more difficult to transfer
21 onto your french fry. And it's kind of the same with blood,
22 semen, saliva. If the item is dried, it's more difficult to
23 transfer between items. If it's liquid, it's much easier to
24 transfer. Also, the type of item that it is is also going to
25 have an impact. If it's an absorbant item, like a shirt or a

1 pair of pants, the DNA will actually absorb into that item.
2 And it's more difficult to transfer than if it is a smooth
3 object.

4 Q. So let's talk about the process of creating a DNA profile
5 from a known person. You talked about cheek swabs. Is that
6 where this fits into the narrative?

7 A. Yes.

8 Q. So walk us through that. How do you go from taking a
9 cheek swab to generating a DNA profile of a person?

10 A. It's the exact same steps of the process. We take a
11 cutting or a collection from that cheek swab. We then add
12 chemicals and heat. We quantify the amount of DNA. We then
13 amplify that DNA. And then we are able to run it through a
14 separation process where we obtain a DNA profile that can then
15 be used to compare it to the evidence.

16 Q. And one point of clarification. Is a cheek swab also
17 commonly known as a buccal swab in the forensic DNA community?

18 A. Yes. They are interchangeable.

19 Q. So at the end of this four-step process, are you able to
20 generate a DNA profile for the person who gave the buccal
21 swab?

22 A. Yes.

23 Q. And can that DNA profile then be compared against DNA, for
24 example, that's recovered from a firearm?

25 A. Yes, it can.

1 Q. What, if any, conclusions are you able to draw from those
2 comparisons?

3 A. There are three conclusions. The first is a match. When
4 the DNA from a known individual is found on the DNA from a
5 evidence item, we say that that individual matches the DNA and
6 could have been the contributor to that item.

7 If the DNA profile from the evidence is different
8 than the DNA from the known individual, we say that that is an
9 exclusion and the person could not have left their DNA on that
10 item.

11 And the third is an inconclusive result, and that is
12 when the quality or the quantity of the DNA is lower. And,
13 therefore, we cannot make a determination one way or the other
14 if a person's DNA is present on an item.

15 Q. So with respect to these comparison conclusions, I want to
16 focus on matches. Is there a -- is there a common metric used
17 to assess the quality of a match?

18 A. When we have a match, we calculate a statistic to show how
19 strong is that match. We do -- at the FBI laboratory we use
20 likelihood ratios. And the bigger the number, the stronger
21 the sample -- the match is.

22 Q. And so are there ranges of likelihood ratios that the FBI
23 employs when doing these kinds of DNA match conclusions?

24 A. Yes, there are.

25 Q. And are you able to explain for the jury what those

1 general ranges are of likelihood ratios?

2 A. I would if I could refer to my report just because we have
3 recently changed our likelihood ranges.

4 MR. APPLEBY-BHATTACHARJEE: So if I may, your Honor,
5 may I approach the witness?

6 THE COURT: That's fine. Sure.

7 THE WITNESS: Yes, this is a copy of my materials,
8 and I can provide the ranges. So the ranges we have at the
9 FBI lab at the time this report was generated was 100 to 999
10 was limited support that a person was a contributor to a
11 sample. 1,000 to 9,999 was moderate support. 10,000 to
12 999,999 was strong support. 1 million to less than 1 trillion
13 was extremely strong support. And then anything greater than
14 1 trillion was support for identification.

15 And just to back up a little bit, what a likelihood
16 ratio is, is it's comparing two different probabilities. The
17 first is what is the probability of the DNA evidence given
18 that it originated from a certain person of interest. And we
19 compare that to the probability of the evidence given that it
20 originated from a random, unrelated unknown individual.

21 So we compare these two probabilities. The bigger
22 the number gets, the more support that a certain person of
23 interest is the contributor to the DNA. The smaller the
24 number, if it's less than 1, means there is more support that
25 an unknown unrelated individual left the DNA. And then if it

1 equals 1, then we cannot tell one way or the other. They are
2 equally likely.

3 BY MR. APPLEBY-BHATTACHARJEE:

4 Q. So I'd like you to maybe use a likelihood ratio in a
5 sentence. Let's say a particular person of interest
6 likelihood ratio is 1 trillion. What does that mean?

7 A. If the likelihood ratio is 1 trillion, what that means is
8 the DNA typing results are 1 trillion times more likely if
9 they originated from a person of interest than if they
10 originated from a random, unrelated unknown individual. And
11 that would also equal support for identification, according to
12 our numbers that we use at the FBI lab.

13 Q. Based on your training and experience, are the likelihood
14 ratio ranges that you've described generally accepted in the
15 forensic scientific community?

16 A. They are. Different laboratories might use different
17 ranges. However, the idea of a likelihood ratio and -- the
18 ranges are similar between laboratories.

19 MR. APPLEBY-BHATTACHARJEE: Your Honor, at this time
20 may I read stipulation number 3 into the record?

21 THE COURT: Sure. Do you need the ELMO?

22 MR. APPLEBY-BHATTACHARJEE: Yes. If we can switch
23 over to the ELMO.

24 THE COURT: You may be able to do that there. There
25 you go.

1 MR. APPLEBY-BHATTACHARJEE: So reading the party's
2 stipulation number 3. In 2017, FBI special agents transferred
3 a Smith & Wesson, M&P15 Sport II CA assault rifle, bearing
4 serial number TE38718, Government's Exhibit 1-A; a Smith &
5 Wesson model SDV9E, 9-millimeter pistol, bearing serial number
6 FYJ7552, Government's Exhibit 2-A; a buccal sample from
7 Cameron Battiste, Government's Exhibit 3-A; and a buccal
8 sample from Iesha Stanciel, Government's Exhibit 4-A, to the
9 FBI laboratory in Quantico, Virginia. Such items were -- all
10 such items were submitted to the laboratory's DNA casework
11 unit for DNA examination.

12 Qualified FBI laboratory biologists at the direction
13 of FBI Forensic Scientist Tiffany L. Smith processed the
14 submitted items and undertook preliminary steps to allow
15 Tiffany L. Smith to conduct a DNA comparison of the submitted
16 items. For the entire time they processed the submitted
17 items, the FBI biologists followed best practices and FBI
18 protocol for the processing and handling of the submitted
19 items for DNA comparison by Tiffany L. Smith. At all times,
20 the FBI biologists maintained a proper chain of custody of the
21 submitted items, and a proper foundation exists for their
22 admission into evidence.

23 Government's Exhibit 1 is a true and accurate
24 photograph of Government's Exhibit 1-A. Government's
25 Exhibit 2 is a true and accurate photograph of Government's

1 Exhibit 2-A. Government's Exhibit 3 is a true and accurate
2 photograph of Government's Exhibit 3-A. And Government's
3 Exhibit 4 is a true and accurate photograph of Government's
4 Exhibit 4-A.

5 So stipulated?

6 MS. DeLEON: So stipulated.

7 MR. APPLEBY-BHATTACHARJEE: And, your Honor, I
8 believe that Exhibits 1-A and 2-A have been entered into
9 evidence, but at this time the government moves to admit
10 Exhibits 1, 2, 3, and 3-A and 4 and 4-A.

11 THE COURT: All right. Those are all admitted based
12 on the stipulation.

13 (Above-mentioned exhibits were received in evidence.)

14 MR. APPLEBY-BHATTACHARJEE: And, your Honor, may I
15 place Exhibits 1-A and 2-A before the witness?

16 THE COURT: That's fine.

17 MR. APPLEBY-BHATTACHARJEE: Thank you.

18 BY MR. APPLEBY-BHATTACHARJEE:

19 Q. And, Ms. Smith, I'm going to ask you to take Exhibit 1-A
20 out of its box, if you could just do so. And I will place the
21 box on the ground next to you.

22 Exhibit 1-A is a Smith & Wesson rifle bearing serial
23 number TE38718. Do you see that?

24 A. Yes, I do.

25 Q. Did you or individuals at the FBI laboratory working at

1 your direction attempt to recover DNA from a Smith & Wesson
2 rifle bearing serial number TE38718?

3 A. Yes.

4 Q. Can you explain for the jury how you would go about
5 attempting to recover DNA from a firearm that looks like that?

6 A. With a firearm that has textured areas, we will always
7 swab only those textured areas. And the reason for that is we
8 don't want to swab any smooth areas that might contain
9 fingerprints. DNA goes first to preserve the integrity of the
10 DNA evidence. So we would swab anything on this item that was
11 textured. We always will swab the grip, because that's
12 traditionally textured. We will swab any buttons or levers.
13 We will swab the ridges along the rifle if it has textured
14 ridges. We will swab along the trigger as well and also along
15 the stock, if needed.

16 Q. And I'll ask you to put that back in the box, and I'll
17 take it from you.

18 Now, Ms. Smith, were DNA swabs taken from the rifle
19 we just looked at together subjected to the four-step process,
20 extraction, quantification, amplification, and separation,
21 that we discussed before?

22 A. Yes.

23 Q. Was DNA successfully recovered from the firearm in
24 Exhibit 1-A?

25 A. Yes, it was.

1 Q. From how many contributors?

2 A. I observed male DNA from two contributors.

3 Q. What relative proportion from each contributor?

4 A. I would again have to refer to my notes.

5 From the rifle, it was estimated that approximately
6 78 percent came from one contributor and 22 percent came from
7 the other. And, again, this is just an estimate. But that
8 would indicate that one person did donate more DNA than the
9 other individual.

10 Q. And is that sufficient to conclude that one person was a
11 major contributor?

12 A. Potentially. We don't use that terminology in our
13 reporting anymore, but a major contributor is when one person
14 donates the majority of the DNA. And other individuals would
15 be considered a minor contributor.

16 Q. Now, if you could look at Exhibit 2-A in the other box up
17 on the bench right now and take the item out of that box.

18 Exhibit 2-A is a Smith & Wesson pistol bearing serial
19 number FYJ7552. Do you see that?

20 A. Yes, I do.

21 Q. Did you or individuals at the FBI lab working at your
22 direction attempt to recover DNA from a Smith & Wesson pistol
23 bearing serial number FYJ7552?

24 A. Yes, we did.

25 Q. And referring to your lab notes, if necessary, are you

1 aware of the condition in which either of these firearms that
2 we have been looking at were found?

3 A. No, I was not.

4 Q. So could you explain for the jury, looking at Exhibit 2-A,
5 the pistol, how you would attempt to recover DNA from a
6 firearm like that?

7 A. We treat all firearms the same, so we would, again, swab
8 just the textured portions. So we would swab the textured
9 grip. We would swab the ridges along the side of this
10 firearm. We would swab the textured areas of the trigger as
11 well as there's texture on the side of the firearm. We would
12 swab that as well. And then we would also swab along the back
13 textured areas.

14 Q. And were the DNA swabs taken from the pistol in
15 Exhibit 2-A subjected to the four-step process, extraction,
16 quantification, amplification, and separation, that we
17 discussed before?

18 A. Yes, it was.

19 Q. Was DNA successfully recovered from the pistol?

20 A. Yes, it was.

21 Q. From how many contributors?

22 A. Again, two individuals, and male DNA was detected.

23 Q. And in what relative proportion from each contributor?

24 A. For the pistol, it was estimated that approximately
25 94 percent from one contributor and 6 percent for the second

1 contributor.

2 MR. APPLEBY-BHATTACHARJEE: And, your Honor, may I
3 place Exhibits 3 and 4, which have already been admitted,
4 before the witness --

5 THE COURT: That's fine.

6 MR. APPLEBY-BHATTACHARJEE: -- or, rather, 3-A and
7 4-A.

8 THE COURT: Okay.

9 BY MR. APPLEBY-BHATTACHARJEE:

10 Q. Exhibit 3-A is a buccal swab taken from the defendant
11 Cameron Battiste. Do you see that?

12 A. I do.

13 Q. Using the defendant's buccal swab, did you or individuals
14 at the FBI lab working at your direction create a DNA profile
15 for Cameron Battiste that could be compared against other DNA
16 profiles?

17 A. Yes.

18 Q. Did you do so following the process you previously
19 described for creating DNA profiles from a known person?

20 A. Yes.

21 Q. And Exhibit 4-A is a buccal swab taken from Iesha
22 Stanciel. Do you see that?

23 A. Yes, I do.

24 Q. Using her buccal swab, did you or individuals at the FBI
25 lab working at your direction create a DNA profile for Iesha

1 Stanciel that could be compared against other DNA profiles?

2 A. Yes, I did.

3 Q. And did you do so following the process you previously
4 described for creating DNA profiles of a known person?

5 A. Yes.

6 Q. Before you is a binder of exhibits. If you could turn to
7 Exhibit 13.

8 A. Yes.

9 Q. Are you familiar with Exhibit 13?

10 A. I am, yes.

11 Q. What is it?

12 A. It is a figure that shows the summary of my results.

13 Q. And, specifically, does Exhibit 13 reflect your findings
14 from comparing the DNA profiles for Defendant Battiste and
15 Iesha Stanciel against the DNA profiles you obtained from the
16 Smith & Wesson rifle and pistol we previously discussed?

17 A. Yes.

18 Q. Does the data underlying the summary chart include
19 multiple reports and other lab documents?

20 A. Yes, it does.

21 Q. Does the data underlying the summary chart reflect the
22 actions of numerous lab technicians working at your direction?

23 A. Yes, it does.

24 Q. Does the underlying data encompass multiple pages of
25 documents?

1 A. Yes, it does.

2 Q. Does Exhibit 13 fairly and accurately summarize your
3 findings with respect to the DNA profiles for the firearms as
4 compared against the DNA profiles for Defendant Battiste and
5 Iesha Stanciel?

6 A. Yes, it does.

7 MR. APPLEBY-BHATTACHARJEE: Your Honor, the
8 government moves to admit summary Exhibit 13 under Rule 1006.

9 THE COURT: Any objection to 13?

10 MS. DeLEON: Not at this time, your Honor.

11 THE COURT: All right. It's admitted.

12 (Above-mentioned exhibit was received in evidence.)

13 MR. APPLEBY-BHATTACHARJEE: May I publish for the
14 jury?

15 THE COURT: Sure.

16 MR. APPLEBY-BHATTACHARJEE: Thank you.

17 BY MR. APPLEBY-BHATTACHARJEE:

18 Q. So referring to Exhibit 13 as a guide --

19 THE COURT: Are we back on the computer now?

20 MR. APPLEBY-BHATTACHARJEE: Oh, yes. I'm sorry, your
21 Honor.

22 THE COURT: That's okay. I can switch it. You got
23 it? Okay.

24 MR. APPLEBY-BHATTACHARJEE: If your Honor could flip
25 over to the computer from the --

1 THE COURT: Now I just got to turn the jury's thing
2 on. There we go.

3 BY MR. APPLEBY-BHATTACHARJEE:

4 Q. And do you see it on the screen before you as well,
5 Ms. Smith?

6 A. I do, yes.

7 Q. So what conclusions, if any, did you make in comparing the
8 DNA profile for Iesha Stanciel against the DNA profile
9 obtained from the Smith & Wesson rifle?

10 A. When I compared Ms. Stanciel to the rifle, she was
11 inconclusive. So, again, an inconclusive result means that I
12 cannot tell one way or another if an individual may have been
13 a contributor to that sample.

14 Q. What conclusions, if any, did you make in comparing the
15 DNA profile for Defendant Cameron Battiste against the DNA
16 profile obtained from the Smith & Wesson rifle?

17 A. When I compared Mr. Battiste's DNA to the mixture of DNA
18 from that rifle, I determined that he matched to a potential
19 contributor on that rifle. I calculated my likelihood ratio,
20 because whenever I have a match, I have to calculate a
21 likelihood ratio to show the strength of that match. And in
22 this case, my likelihood ratio was 240 billion. And so what
23 that means is the DNA typing results are 240 billion times
24 more likely if Mr. Battiste is a contributor to that DNA than
25 if Mr. Battiste is not a contributor to that DNA.

1 Q. Do you recall mentioning that there were approximately two
2 DNA contributors on the rifle?

3 A. Yes.

4 Q. And which of those contributors is Mr. Battiste a match
5 for, according to your analysis?

6 A. He was more consistent with the major contributor, the
7 78 percent contributor.

8 Q. I'd like to turn your attention now to the Smith & Wesson
9 pistol. What conclusions, if any, did you make in comparing
10 the DNA profile for Iesha Stanciel against the DNA profile
11 obtained from the Smith & Wesson pistol?

12 A. From the pistol, Ms. Stanciel was excluded as a potential
13 contributor, meaning her DNA was not the same as the DNA found
14 on the pistol.

15 Q. So are you able to conclude that Ms. Stanciel was not the
16 major contributor on the pistol?

17 A. That is correct. She was excluded as from both
18 contributors.

19 Q. What conclusions, if any, did you make in comparing the --
20 in comparing the DNA profile for Defendant Cameron Battiste
21 against the DNA profile obtained from the Smith & Wesson
22 pistol?

23 A. When I compared Mr. Battiste to the pistol, I, again,
24 matched him to a potential contributor in that sample. When I
25 calculated my likelihood ratio here, it was 62 quintillion.

1 So 62 quintillion means that the DNA type results are
2 62 quintillion times more likely if Mr. Battiste is a
3 contributor than if Mr. Battiste is not a contributor, and
4 this offers support for identification, that he is a
5 contributor to that DNA.

6 Q. And just for the jury's benefit, what's a quintillion? 1
7 followed by how many zeros?

8 A. A quintillion is 1 followed by 18 zeros.

9 Q. Do you recall mentioning that there were two DNA
10 contributors on the pistol as well?

11 A. Yes, I do.

12 Q. Which of those two contributors is Mr. Battiste a match
13 for?

14 A. Using STRmix, he was a match to the 94 percent
15 contributor.

16 MR. APPLEBY-BHATTACHARJEE: No further questions at
17 this time, your Honor.

18 THE COURT: Ms. DeLeon.

19 - - -

20 TIFFANY L. SMITH, CROSS-EXAMINATION

21 BY MS. DeLEON:

22 Q. Good afternoon, Ms. Smith.

23 A. Good afternoon.

24 Q. If you will just give me a moment so I can get organized a
25 little here.

1 So, Ms. Smith, first off, in discussing DNA evidence,
2 in discussing DNA in general, we are talking about very small
3 particles; is that right?

4 A. That is correct.

5 Q. And maybe even smaller than small, would be like tiny,
6 microscopic, in fact?

7 A. Yes, that is correct.

8 Q. And so we're discussing something that cannot be seen to
9 the naked eye, right?

10 A. Traditionally, no. Some cells are larger than others, but
11 traditionally that is correct, yes.

12 Q. And when you're swabbing surfaces, as you have described
13 on direct, are you looking for only visual cues as to where
14 DNA could potentially be, or you're just swabbing areas where,
15 in your experience, microscopic biological material could be
16 present?

17 A. We will swab according to our standard operating
18 procedure. So for firearms, for instance, we always will swab
19 all the textured areas. So that is a visual cue on the
20 firearm. Where there is texture, we know that skin cells may
21 or may not be trapped on that area. So we are visually
22 looking at the item, but we are following our protocol to
23 determine where to collect from.

24 Q. And that could be -- you described that maybe the skin
25 cells are on those textured ridges, but it could be, as you

1 described on direct, bodily fluids like blood, saliva, semen;
2 is that correct?

3 A. It is possible, yes.

4 Q. So not just skin cells, is my point?

5 A. Yes, that is correct. We will swab all the textured areas
6 based on how firearms are traditionally used. However, we do
7 not know where the DNA comes from. It could come from a body
8 fluid as well. That is correct.

9 Q. Okay. And just by the very nature of DNA as we have been
10 talking about, it's a very sensitive kind of evidence; is that
11 right? Would you agree with that statement?

12 A. That is correct. DNA testing is relatively sensitive,
13 yes.

14 Q. And is it true that, in fact, just a few cells could get
15 you a full DNA profile of a contributor?

16 A. It's possible. Traditionally we target 1 nanogram of DNA,
17 which is close to 200 cells, but you can get full profiles
18 from less than that. That is possible, yes.

19 Q. And are you familiar with the number of cells that were
20 recovered from, for instance, in this case, the rifle?

21 A. We don't know specifically how many cells are collected.
22 There's no way for us to determine exactly how many cells are
23 found.

24 Q. So is there any way to determine whether it was less than
25 1 nanogram as you said was typically 200 cells?

1 A. It was less than 1 nanogram. That is correct.

2 Q. Was it less than half a nanogram?

3 A. I would have to refer to my notes specifically.

4 Q. Please do.

5 THE WITNESS: Your Honor, may I grab my notes?

6 THE COURT: Yes. That's fine. Oh, they're over
7 there. Go ahead.

8 BY MS. DeLEON:

9 Q. And take your time. Let us know when you are ready.

10 A. Yes. That is correct. From the rifle, there was less
11 than a half a nanogram as well as with the pistol. That is
12 correct.

13 Q. So as to the rifle that we were discussing earlier that
14 you looked -- took a look at and the pistol that you were
15 describing earlier, from each one of those objects, less than
16 1 nanogram of cells was recovered from each; is that right?

17 A. This, again, is an estimate, but that is correct. It is
18 an estimate, but it would be about that, yes.

19 Q. Okay. And just to remind us, that, you said, is about 200
20 cells?

21 A. It's actually a little less than that, but, yes.

22 Q. Okay. So then it would be fair to say that if half of a
23 nanogram, which is less than 200 cells, was recovered, then it
24 would be less than a hundred was found on each object that you
25 tested?

1 A. Again, that's potential. These are all estimates, so it
2 is an estimation. I can't say the specific number of cells,
3 yes.

4 Q. Sure.

5 So back to what I kind of briefly asked you about
6 before, which was a full DNA profile can be recovered from
7 just a few cells; is that right?

8 A. It is possible. Yes, that is possible.

9 Q. Or a portion profile; is that right?

10 A. That is correct. And a partial profile just means we did
11 not obtain DNA at all of the tested locations.

12 Q. And so can you -- can you briefly just explain to -- well,
13 me and the jury what the difference between a full profile and
14 a partial profile is?

15 A. So when we look at the different locations in the DNA, a
16 full profile is if we have DNA at all of those locations. We
17 are not missing information at any of them. For a partial
18 profile, it means we don't have DNA at all of the locations.
19 Some of the locations are missing DNA, and that is typical for
20 forensic testing.

21 THE COURT: When you say "locations," you don't mean
22 locations on the object you're looking at; you mean locations
23 within the cell structure?

24 THE WITNESS: That is correct. The specific
25 locations I'm referring to are the DNA testing locations or

1 short tandem repeats throughout the DNA.

2 BY MS. DeLEON:

3 Q. And so with respect to full versus partial profiles, as
4 you just explained, whereas in a partial profile, there would
5 be missing information at those locations, as you cleared up
6 for the judge, what kind of a profile was created in this
7 case?

8 A. Again, referring to my notes specifically, full profiles
9 were obtained from the known reference samples, and partial
10 profiles were obtained from the evidence samples.

11 Q. And so when you say "the known samples," those were the
12 samples that you eventually tested for comparison that were
13 directly swabbed from inside the cheek of Mr. Battiste at some
14 point; is that right?

15 A. Yes, that is correct.

16 Q. So that would be a full profile because you know where
17 that's coming from, right?

18 A. Typically it is a full profile, but, again, if it's
19 treated through extreme temperatures, heat or humidity, it can
20 degrade just like evidence can. But, yes, routinely known
21 profiles are full profiles.

22 Q. Okay. And then -- so with respect to what was recovered
23 from the two firearms at issue in this case, we are talking
24 about recovery of a partial profile as to each; is that right?

25 A. Yes. They are both partial profiles but still suitable

1 for comparison.

2 Q. Okay. And we talked a little about DNA transfer or
3 transferring DNA from an object, physically touching it like
4 the pen. I believe you used your microphone stand -- or the
5 microphone as an example. There are other types of transfers;
6 is that right?

7 A. Yes, there are different types of transfer. That's
8 correct.

9 Q. And -- what are those different types of transfer?

10 A. Primary transfer is when an individual comes into direct
11 contact with an item leaving their DNA on that item.

12 Q. And so that would be somebody directly touching an item or
13 perhaps sneezing or spitting towards an item, and it lands on
14 top of that -- on top of a surface, correct?

15 A. Yes. That would be considered primary transfer, yes.

16 Q. And what's the other kind -- is it two kinds of transfer
17 or three?

18 A. There are multiple types of transfer. The second type is
19 secondary transfer, and that is when an individual's DNA is
20 obtained from an item through indirect transfer. So, again,
21 if I touch this microphone stand, I'm leaving my DNA on this
22 microphone stand through primary transfer. However, the next
23 individual that comes up and sits in this seat might touch the
24 same spot, and my DNA may get on their hands because they
25 touched an object that my DNA is already on. That is

1 secondary transfer, meaning myself and that individual have
2 never come in contact with one another, but my DNA is
3 transferred through that secondary contact.

4 Q. And are there more -- is there another type of transfer?
5 I know you were saying that there was more than that.

6 A. There is a third type of transfer called tertiary
7 transfer, and that would be now that my DNA is on this
8 individual's hand, they go touch a new object, and a few of my
9 cells might be left behind on that object. That would be
10 called tertiary transfer.

11 Q. It's tertiary; is that right?

12 A. Yes.

13 Q. Okay. I just want to make sure I was pronouncing it
14 right.

15 So tertiary transfer is where, you know, let's use
16 the microphone or this pen, for example. I leave this pen
17 behind. My DNA perhaps is on this pen, either through saliva
18 or through skin particles. And then somebody else comes into
19 the courtroom, picks up this pen and takes it off somewhere
20 else. Now, my DNA on this object would be in another room
21 somewhere else hypothetically; is that right?

22 A. Yes. The DNA would still be on the object itself. That's
23 still primary transfer. Secondary transfer would be if the
24 DNA transferred from that pen to another object.

25 Q. I see. Okay. So I'm explaining it wrong.

1 So can you give us another example of tertiary DNA
2 transfer, just so I'm making sure I understand?

3 A. So tertiary transfer could be anything such as I bled on
4 an item. So I have a cut, and I have liquid blood left on the
5 counter. That would be primary transfer. My DNA in the form
6 of blood was left behind on that counter. Now, say, my friend
7 comes through and touches that blood. That blood gets on her
8 shirt. That would be secondary transfer. She never
9 interacted with me directly. I didn't bleed on her. However,
10 she picked up my blood from the countertop. That would be
11 considered secondary transfer.

12 Now, if she took her shirt off and left it on the
13 floor and some of my blood then transferred to the carpet of
14 that floor, that would be considered tertiary transfer. So
15 it's very difficult to pass DNA through this process. It's
16 just -- it is a possibility, and so we have names for it just
17 because it could happen, yes.

18 Q. And so is that -- that's a principle, though, that is
19 accepted in forensic science; is that right?

20 A. That is correct. And, again, liquid samples, such as
21 liquid blood, saliva, or semen, are more easily transferred
22 because they are wet. They are able to absorb onto items.
23 Whereas, dried samples or skin cells are more difficult to
24 transfer, but, yes, it is.

25 Q. Sorry.

1 But transfer can still occur?

2 A. That is correct. Yes, it can.

3 MS. DeLEON: Sorry. If you will just give me a
4 moment.

5 (Brief pause.)

6 BY MS. DeLEON:

7 Q. Based on this idea of transferring DNA, either primary,
8 secondary, or tertiary -- tertiary; is that right?

9 A. That's how I pronounce it, yes.

10 Q. Okay. There is no way of telling which method of transfer
11 landed that -- those specific cells on a certain item; is that
12 right?

13 A. That is correct. Through DNA testing, you cannot tell how
14 or when DNA got on an item.

15 Q. How or when; is that right?

16 A. That's correct.

17 Q. Okay. And you certainly, therefore, then don't know the
18 order in which cells arrived on an item?

19 A. That is correct, no.

20 Q. Or how they were deposited then?

21 A. That is correct, no.

22 Q. And the source of the DNA, whether it be skin cells,
23 blood, semen, saliva, or really any cells that you said that
24 could carry DNA, there's no way to tell what the source of the
25 DNA is from the test, right?

1 A. That is correct. Traditionally if we believe there is a
2 body fluid on an item such as blood or semen, we will do types
3 of testing called serology where we'll test an item for the
4 presence of blood or semen. That was not done in this case.
5 In this case, there was no reason to believe there was any
6 blood present on the item because we didn't see any red-brown
7 staining. However, I do not know where the DNA from this item
8 came from. That is correct.

9 Q. And you're familiar, as you told us on direct examination,
10 with the concept of DNA degradation; is that right?

11 A. That is correct, yes.

12 Q. I have a problem with that word, too, "degradation."

13 And that has to do with the quality of the DNA that
14 you were describing to us on direct, right?

15 A. Yes. Again, degradation is when DNA is subjected to
16 either heat, sunlight, humidity, time. It could break down
17 the DNA leaving less DNA on that item.

18 Q. And can that also be -- or can degradation also occur
19 through microbial activity?

20 A. It can, yes. So if there's bacteria that could break up
21 the DNA as well, that is another possibility, yes.

22 Q. And that, again, is at a microscopic level, right? This
23 microscopic bacteria could potentially degrade microscopic
24 human cells?

25 A. It could be, but it would have to be pretty extreme

1 because we can obtain DNA from bloodstains that are 30 years
2 old. So it would have to be a pretty extreme condition, but,
3 yes, it is possible.

4 Q. Just based on what you were saying about being able to
5 get -- or test an old bloodstain, for instance, that's just
6 because of the high sensitivity of these examinations, right,
7 or the tests that you perform?

8 A. It is highly sensitive. But, again, with blood, if it's
9 absorbed and dried on an item and subjected to pristine
10 conditions, it can last forever even without sensitive
11 examinations because there's a lot of DNA there.

12 Q. Pardon.

13 So does the quality or level of degradation of the
14 DNA matter to testing?

15 A. For testing purposes, it doesn't matter. We are going to
16 swab the item regardless on whether the DNA has been
17 potentially degraded or not. Whether we see a DNA profile or
18 not may show in the results. If the sample is extremely
19 degraded, we may not obtain a DNA profile, or we will get very
20 limited DNA. But the testing is not any different.

21 Q. On direct examination, you had talked about how almost
22 anything can have DNA on it; is that right?

23 A. That is possible. Anything that's come in contact with an
24 individual or an individual speaks over or sneezes onto can
25 have DNA. That is possible.

1 Q. And that goes for household objects; is that right?

2 A. Yes, that is correct.

3 Q. So you, as a forensic examiner, know that clothing or
4 bedsheets or items in a household would probably have DNA or
5 most certainly have DNA material on them; is that right?

6 A. Yes. That would be possible, yes.

7 Q. And are you familiar with the -- I guess the way that
8 these objects were found -- or I'm sorry -- the way that the
9 objects were before you received them in the lab?

10 A. I was not prior to my testing. I am now familiar with it
11 because I was informed recently. But during my testing, I was
12 not familiar with it.

13 Q. Okay. And you were informed recently then that these
14 items that you had tested were originally wrapped in a
15 bedsheet; is that right?

16 A. Yes. I am familiar with at least one of them being in a
17 bedsheet, yes.

18 Q. Okay. And did you ever have occasion to examine that
19 bedsheet?

20 A. No, I did not.

21 Q. So that bedsheet was not sent to you at any point; is that
22 right?

23 A. That's correct.

24 Q. And certainly then you received no swabs from that -- from
25 a bedsheet in this case; is that right?

1 A. That is correct. And traditionally we wouldn't have
2 tested the bedsheet for DNA.

3 THE COURT: Just answer the question that's asked,
4 please.

5 THE WITNESS: No, that's correct. We did not.

6 BY MS. DeLEON:

7 Q. Okay. We had talked earlier -- or I'm sorry. Not we.
8 But you had spoken earlier about a program that this software
9 that creates or generates a percentage that we had seen on a
10 chart that counsel had put up earlier; is that right?

11 A. Yes, that's correct.

12 Q. Okay. And you had described the percentage that was
13 attributed on that chart in the boxes as an estimation; is
14 that right?

15 A. Yes, that is correct.

16 Q. And that's an estimation because to really determine the
17 percentages, what would be too difficult to do, or can you
18 kind of explain why that is difficult to prove?

19 A. Again, because we don't know how or when DNA was left
20 behind, we can't say exactly what the ratio is between that.
21 What we're using is what we see in the profile. We look at
22 the heights of the DNA, so how much DNA are we actually seeing
23 from each contributors. And the software uses a series of
24 algorithms to determine this. But, again, it is an estimate.

25 Q. And when we were talking earlier -- I keep saying that.

1 When you were talking earlier about the firearms
2 having been swabbed, you had described the different areas --
3 the different textured regions were swabbed, right?

4 A. Yes, that is correct.

5 Q. And you have described specifically as to the pistol, for
6 example, that the grip, the ridges, the trigger, the side
7 textured areas, and the back textured areas were all swabbed?

8 A. Yes. All of the textured areas were swabbed.

9 Q. Now, when you say "swabbed," do you mean each
10 individual -- each section that I just described is
11 individually swabbed with one stick or like one collection
12 stick?

13 A. We take --

14 THE COURT: I think what she is asking you is does
15 each section get its own swab?

16 Is that what you are asking?

17 BY MS. DeLEON:

18 Q. Yeah, I guess what I'm trying to clear up, what I'm not
19 sure of is the swab itself, is that an object, a swab?

20 A. Yes. It is a swab that has moisture on it, and we are
21 vigorously swabbing all of the textured areas to transfer the
22 DNA onto that item, yes.

23 Q. So what does that swab look like?

24 A. It looks like -- in essence, it looks like a Q-Tip. It is
25 longer, but it only has swab on one end.

1 Q. It's like a big one-sided Q-Tip?

2 A. Yes.

3 Q. And so this big one-sided Q-Tip, you take one, and you're
4 vigorously swabbing the trigger. And then you move on to
5 another swab, and then you vigorously swab the ridges?

6 A. We use one swab, and we will swab all the textured areas
7 on that firearm with one swab.

8 Q. Okay. So one big one-sided Q-Tip is used to swab the
9 entire item that you're testing?

10 A. Unless we need to go to a second swab. Routinely, we
11 don't need to. If the swab starts to...

12 Q. Come apart?

13 A. Yeah, if it becomes difficult to transfer any more
14 material onto it, we will go to a second swab. But,
15 routinely, with firearms that's not necessary.

16 Q. Okay. So this one swab is being used on all of those
17 areas that I just described. You're vigorously swabbing this
18 grip, the ridges, the trigger, the side textured areas, the
19 back textured areas, anywhere else you're deeming should be
20 swabbed. It's that one swab for the whole thing, vigorously
21 rubbing on those areas, right?

22 A. Yes, that is correct.

23 Q. All right. Because you are trying to pick up every little
24 bit?

25 A. Yes. We're trying to pick up as much as we can. We know

1 that because, again, these areas are textured, there could be
2 skin cells within that texture. So we know we are not getting
3 everything. We're just getting as much as we can.

4 Q. And by the very nature of DNA, you need to try to get
5 everything that you can because everything is so small, right?

6 A. Well, we want to get enough DNA in order to be able to
7 generate a DNA profile, so we are trying to get as much as we
8 can from that area.

9 Q. And what you did in this case with respect to both the
10 swabbing of both firearms created only a partial profile, as
11 we had discussed earlier?

12 A. It was a partial profile, but we still got an almost
13 complete profile. It was not just a few locations.

14 Q. But you had said earlier that it was a partial profile,
15 not a full profile; is that right?

16 A. That is correct. When we look at 24 locations, a partial
17 profile would also mean if we only got DNA at 23 of the 24.
18 So it's a little misleading. A partial profile just means
19 that I don't have DNA at all of the locations present.

20 Q. Okay.

21 MS. DeLEON: Your Honor, if I could just have a
22 moment.

23 THE COURT: Sure.

24 (Brief pause.)

25 MS. DeLEON: Just a few more questions, if you'll

1 bear with me.

2 BY MS. DeLEON:

3 Q. So when we were talking about transfer earlier, certainly
4 in a hypothetical where an item is wrapped in a cloth or
5 wrapped in -- an object is wrapped tightly or wrapped in a
6 piece of material, for instance, it is possible that
7 material -- biological particles and material, whether wet or
8 dry, on the cloth could potentially transfer to the surface of
9 the material -- of the object that was inside that cloth; is
10 that right?

11 A. It is possible, yes.

12 Q. Okay.

13 MS. DeLEON: Okay. I have no further questions of
14 this witness.

15 THE COURT: Redirect?

16 MR. APPLEBY-BHATTACHARJEE: Yes, your Honor. Can I
17 have a moment to set up the computer?

18 - - -

19 TIFFANY L. SMITH, REDIRECT EXAMINATION

20 BY MR. APPLEBY-BHATTACHARJEE:

21 Q. Hello again, Ms. Smith. I want to start with swabbing
22 textured areas. Do you recall being asked about that on
23 cross-examination?

24 A. Yes, I do.

25 Q. When you're swabbing firearms, do you use one swab per

1 gun?

2 A. Yes. Traditionally, yes.

3 Q. Are you going to use the swab -- do you typically use the
4 swab that was used for the rifle on the pistol as well?

5 A. No. We would collect from each item individually. We'd
6 also clean our bench tops with bleach before going on to the
7 next item as well. We only have one item out at a time. We
8 use one swab per item. That item is then completed. And then
9 we will go on to the next item.

10 Q. You talked about textured areas. Are those the places
11 where a person would ordinarily hold a firearm, such as the
12 grips?

13 A. Oftentimes, a grip is textured. It's not always textured.
14 So, in most instances, yes, that is potentially where an
15 individual would come in contact with a firearm.

16 Q. Now, you testified on both direct and cross-examination
17 that you don't know how cells get onto an item; is that right?

18 A. That is correct. I cannot say how or when DNA is
19 obtained -- found on an item or left behind on an item.

20 Excuse me.

21 Q. Again, that's not part of your job description; is that
22 fair?

23 A. That is correct, yes.

24 Q. Hypothetically, if aliens from outer space deposited DNA
25 on an object, you wouldn't know?

1 A. That is correct, no.

2 Q. And, hypothetically, if a defendant ran from the police
3 before you ever found his DNA --

4 MS. DeLEON: Objection, your Honor.

5 THE COURT: The objection is sustained.

6 BY MR. APPLEBY-BHATTACHARJEE:

7 Q. On direct exam and cross-examination, you were asked a few
8 questions about degradation. Do you recall that?

9 A. Yes, I do.

10 Q. And you described factors that can lead DNA to degrade.
11 Do you remember that?

12 A. Yes.

13 Q. Does that include the passage of time?

14 A. Yes, that is correct.

15 Q. And other environmental factors as well?

16 A. Yes. Again, heat, humidity, bacteria, moisture, cleaning.
17 Those can all remove DNA or degrade DNA.

18 Q. Based on your experience, is there sometimes a gap in time
19 between when an object is recovered from a crime scene and
20 when your lab --

21 MS. DeLEON: Objection, your Honor.

22 THE COURT: Leading. Sustained. You are not allowed
23 to lead even though it's redirect.

24 BY MR. APPLEBY-BHATTACHARJEE:

25 Q. Is it your typical experience to swab items for DNA on the

1 day they are recovered from a crime scene?

2 A. No, that's not typical. Traditionally, once the evidence
3 is received at the laboratory, it will get assigned to the
4 different units. It will move through the laboratory
5 depending on what examinations are required, and then it will
6 get tested in the order in which we routinely receive the
7 case. So we receive about 200 or so cases a month.

8 Q. Based on your training and experience, can DNA that may be
9 deposited on an object degrade out in the field before it
10 comes to your lab?

11 A. That is possible, yes.

12 Q. You were asked questions about secondary and tertiary
13 transfer. Is that fair? Or do you recall that?

14 A. Yes.

15 Q. And would it be okay if I referred to secondary and
16 tertiary transfer by the term "indirect transfer"?

17 A. That's fine, yes.

18 Q. So on direct exam you testified that there were some
19 generally understood limitations on indirect transfer. Do you
20 recall that?

21 A. I do.

22 Q. Based on your training and experience, if DNA is deposited
23 through indirect transfer, is that usually a major or a minor
24 contributor?

25 A. The direct transfer is typically the major contributor.

1 The indirect transfer is usually the minor contributor, based
2 off the studies I have seen. Again, that's not always the
3 case. It could be different. However, the majority of the
4 case studies I have read, the individual who comes into direct
5 contact with an item routinely will leave the majority of the
6 DNA.

7 Q. And if DNA is deposited through indirect transfer, would
8 you generally expect to find the transfer's DNA as well?

9 A. You could, yes.

10 Q. On direct examination, you described the possibility of
11 indirect transfer from absorbant surfaces like a shirt. Do
12 you recall that?

13 A. Yes, I do.

14 Q. And your testimony, if I recall correctly, is that
15 indirect transfer from such absorbant surfaces like shirts
16 would be less likely; is that right?

17 A. I'm sorry. Can you repeat the question?

18 Q. That indirect transfer of DNA from absorbant surfaces
19 would be less likely?

20 A. Based off the studies I have read, it is easier to
21 transfer from a non-porous item, like a smooth item, to a
22 absorbant material like a shirt than it is from vice versa.
23 So, for instance, if a firearm is wrapped in a blanket, it
24 would be actually easier for the firearm to transfer DNA to
25 the blanket than vice versa, but it could happen.

1 Q. At the time you conducted your DNA analysis in this case,
2 were you aware that the Smith & Wesson rifle was found wrapped
3 in a bedsheet?

4 A. No, I was not.

5 Q. At the time you conducted your DNA analysis in this case,
6 were you aware that the Smith & Wesson pistol was found
7 wrapped in a plastic shopping bag?

8 A. No, I was not.

9 Q. In spite of how they were stored, was your lab able to
10 recover DNA from both firearms?

11 A. Yes, it was.

12 Q. Was it able to recover enough DNA suitable for comparison
13 in this case?

14 A. Yes, it was.

15 MR. APPLEBY-BHATTACHARJEE: Your Honor, may I publish
16 Exhibit 13, which is already in evidence?

17 THE COURT: Sure.

18 BY MR. APPLEBY-BHATTACHARJEE:

19 Q. Of defendant and Iesha Stanciel, who, if anyone, was
20 excluded as a contributor on the DNA on any of the firearms?

21 A. Ms. Stanciel was excluded from the pistol, and then she
22 was inconclusive on the rifle.

23 Q. And of defendant and Ms. Stanciel, who, if anyone, was a
24 match for the major contributor on both firearms?

25 A. Mr. Battiste matched to both firearms.

1 MR. APPLEBY-BHATTACHARJEE: No further questions,
2 your Honor.

3 THE COURT: Anything new based on the redirect?

4 MS. DeLEON: No, your Honor.

5 THE COURT: The witness is excused. We are going to
6 take a 10-minute break.

7 (The jury leaves the courtroom.)

8 THE COURT: I've got a draft of the jury
9 instructions, one for each side. It's a little bit
10 overinclusive probably, but we can always eliminate stuff. So
11 we'll figure out at the end of the day when we're going to
12 talk about all that.

13 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.

14 THE COURT: Okay. Take ten minutes.

15 MR. APPLEBY-BHATTACHARJEE: And just to notify the
16 Court and the parties, one more witness left from us. Thank
17 you.

18 (Short break.)

19 THE COURT: Okay. We are back on the record. All
20 the lawyers and Mr. Battiste are present. So is there
21 something you wanted to bring up?

22 MR. ADAMS: Yes, your Honor. Mr. Battiste would like
23 to call his expert out of order from the government's case, if
24 that's all right with the Court. I have spoken to the
25 government about it.

1 THE COURT: So you changed your mind?

2 MR. ADAMS: I did, your Honor.

3 THE COURT: Okay. All right. That's fine.

4 MR. APPLEBY-BHATTACHARJEE: We have no objection.

5 THE COURT: You don't have a problem with it. Okay.

6 So that would -- okay. How long do you think the direct is?

7 MR. ADAMS: It might take half an hour at the most.

8 THE COURT: The goal is to get the person done

9 today --

10 MR. ADAMS: Yes.

11 THE COURT: -- because there is a problem with

12 tomorrow or something like that.

13 MR. ADAMS: Yes, your Honor.

14 THE COURT: Okay. We should make a record of what it

15 is. So it's a problem with tomorrow. The person would have

16 trouble getting back here.

17 MR. ADAMS: Yes, your Honor. He would. And, your

18 Honor, can I have an extra five minutes just to get ready

19 with Mr. Friedman.

20 THE COURT: Make sure you understand you are eating

21 into your own time.

22 MR. ADAMS: Yes, your Honor.

23 THE COURT: Okay. So take five minutes, and we'll

24 get them back out here then.

25 (Short break.)

1 THE COURT: Can I get them out here?

2 (The jury enters the courtroom.)

3 THE COURT: All right. Everybody can are have a
4 seat. You have some more stipulations to read,
5 Mr. Bhattacharjee?

6 MR. APPLEBY-BHATTACHARJEE: Yes, your Honor.

7 THE COURT: Hang on one second until everybody's
8 situated here.

9 Okay. Go ahead.

10 A couple more stipulations, folks.

11 MR. APPLEBY-BHATTACHARJEE: Yes. Stipulation 8:
12 Government's Exhibit 17 consists of emails exchanged between
13 Iesha Stanciel and Cameron Battiste. If called to testify, a
14 witness from the BOP, or the Bureau of Prisons, would testify
15 that Government's Exhibit 17 contains emails that are kept in
16 the course of the Bureau of Prisons' regularly conducted
17 activity and that an adequate foundation exists for Exhibit 17
18 to be received in evidence.

19 So stipulated?

20 MR. ADAMS: So stipulated.

21 MR. APPLEBY-BHATTACHARJEE: Your Honor, the
22 government moves to admit Exhibit 17.

23 THE COURT: It's admitted based on the stipulation.

24 (Above-mentioned exhibit was received in evidence.)

25 MR. APPLEBY-BHATTACHARJEE: Stipulation number 9:

1 Government's Exhibit 19 is a certified docket sheet kept by
2 the DuPage county clerk of the 18th Judicial Circuit Court,
3 which sets out that office's activities and is a public record
4 for which an adequate foundation exists.

5 So stipulated?

6 MR. ADAMS: So stipulated, your Honor.

7 MR. APPLEBY-BHATTACHARJEE: And the government moves
8 to admit Exhibit 19, your Honor.

9 THE COURT: And that's admitted based on the
10 stipulation.

11 (Above-mentioned exhibit was received in evidence.)

12 THE COURT: So what's going to happen next is,
13 although the government isn't quite finished with its case
14 yet, we're going to call a defense witness out of sequence,
15 which I told them they could do. It's just an availability
16 issue. So that person is going to be called next.

17 One thing you should know, I think I told you
18 earlier, that witnesses, generally speaking, wait outside the
19 courtroom if they're not testifying. There is an exception
20 that I made for the next witness who has been here I think for
21 a little bit and Ms. Smith, who you will see is still there.
22 The reason being they may be commenting on each other's
23 testimony. So they are entitled to hear the other's
24 testimony.

25 So you can call the witness. Ms. DeLeon, you can

1 call the witness.

2 MS. DeLEON: Yes. We will be calling Dr. Alan
3 Friedman.

4 (Witness sworn.)

5 - - -

6 ALAN FRIEDMAN, Ph.D., DIRECT EXAMINATION

7 BY MS. DeLEON:

8 Q. Good afternoon. In a loud, clear voice, can you please
9 introduce yourself to the jury.

10 A. My name is Alan Friedman.

11 Q. And could you --

12 THE COURT: Since there's multiple spellings of both
13 of those, why don't you spell them both. And I'm going to
14 move the mic so it's more in front of you.

15 THE WITNESS: Sure.

16 Alan Friedman is A-l-a-n, F-r-i-e-d-m-a-n.

17 THE COURT: Thanks.

18 BY MS. DeLEON:

19 Q. And where did you go to school?

20 A. I was an undergraduate, and I did a master's degree at
21 Humboldt State University in California, and I have a Ph.D.
22 from the University of Chicago in molecular genetics and cell
23 biology.

24 Q. So as you have a Ph.D. then, it's appropriate to call you
25 Doctor; is that correct?

1 A. Yes.

2 Q. May I call you Doctor?

3 A. Yes.

4 Q. Dr. Friedman, what was your bachelor's in?

5 A. My bachelor's degree was in botany, and my master's degree
6 was in biology.

7 Q. And your Ph.D., can you tell us what your Ph.D. is in from
8 the University of Chicago?

9 A. It's molecular genetics and cell biology, which is one
10 degree.

11 Q. I'm sorry. Can you repeat that?

12 A. It's one degree.

13 Q. Can you repeat the degree? I'm so sorry.

14 A. Molecular genetics and cell biology.

15 Q. And where did you begin working after -- well, after your
16 many accreditations?

17 A. After graduate school, I did a post doctoral research
18 fellowship at the University of Wisconsin, Madison. And after
19 that, I was an assistant professor of biology at Marquette
20 University in Milwaukee. After that, I opened a laboratory in
21 1996, Helix Biotech, Inc., and in that capacity, I was
22 president and the laboratory director. And I did both
23 forensic DNA profiling, body fluid identification, as well as
24 paternity testing.

25 Q. And what professional affiliations do you have, if any, in

1 your field?

2 A. I'd like to consult my C.V. I'm a member of the American
3 Association of Forensic Scientists, and the Midwest
4 Association of Forensic Scientists.

5 Q. And, Dr. Friedman, do you do continuing education courses
6 or seminars?

7 A. I do.

8 Q. And have you testified ever before?

9 A. I have.

10 Q. And how many times have you testified in court, I should
11 say?

12 A. Over 60 times over the course of more than 20 years in ten
13 different states and in federal courts.

14 Q. And how long have you been working in the field of
15 molecular biology?

16 A. Molecular biology started in graduate school, but forensic
17 biology, since 1996.

18 Q. Forensic biology since 1996?

19 A. Yes.

20 MS. DeLEON: Judge, may I proceed at this time?

21 THE COURT: Do you want to question him now regarding
22 his qualifications?

23 MR. APPLEBY-BHATTACHARJEE: Subject to
24 cross-examination.

25 THE COURT: Okay. That's fine.

1 You can proceed.

2 MS. DeLEON: Thank you.

3 BY MS. DeLEON:

4 Q. So, Doctor, as we know, you were here for the previous
5 testimony when Ms. Smith testified?

6 A. Yes.

7 Q. And you were listening in the courtroom; is that right?

8 A. That's correct.

9 Q. Okay. And so I just wanted to speak with you and have you
10 explain some things to the jury that I spoke to Ms. Smith
11 about.

12 Specifically, as to the degradation of DNA, what can
13 cause DNA degradation? Pardon me.

14 A. DNA degradation occurs over time, and it can be a function
15 of moisture; microbial activity, such as bacteria, fungi;
16 direct exposure to sunlight. Those are examples of things
17 that break down DNA into smaller pieces.

18 Q. So they can be environmental -- environmental issues,
19 right, like you were saying, the sunlight or moisture,
20 humidity; is that right?

21 A. Yes.

22 Q. Okay. And what is the effect of D -- of degradation on
23 DNA that is to be tested?

24 A. Sure. The DNA profile consists of a number of regions of
25 the human genome. And some of these are going to be larger

1 than others. So what we know is that individuals vary in
2 their DNA profile in terms of how long the DNA is at the
3 region that's being tested. Now, when one looks at a profile
4 from a pristine high quality DNA, the peaks from the smallest
5 fragments to the largest fragments will be of similar quality
6 or peak height. And with degraded DNA, what you see is
7 preferential amplification of the smaller fragments compared
8 to the larger fragments.

9 Q. And you reviewed materials in this case, correct?

10 A. Yes.

11 Q. And you reviewed those materials for your -- in
12 preparation for your testimony today; is that right?

13 A. Yes.

14 Q. And based on your review of the materials in this case,
15 did you find that preferential testing occurred here?

16 A. Degradation?

17 Q. Yes. Or rather --

18 THE COURT: Why don't you ask your question over
19 again.

20 BY MS. DeLEON:

21 Q. Did you, in preparing for this case today, review material
22 that you found showed DNA degradation?

23 A. Yes, I did.

24 Q. And, therefore, did you also find the test materials that
25 you reviewed showed or indicated preferential testing as you

1 had just described?

2 A. I'm not sure I understand that question.

3 Q. You had said you were describing about the lengths and the
4 peak heights --

5 A. Yes.

6 Q. -- where DNA is potentially degraded.

7 A. Yes.

8 Q. Those peak heights are lower or higher?

9 A. The smaller fragments show larger peak heights. The
10 larger fragments show smaller peak heights.

11 Q. And what peak heights did you observe in this case?

12 A. That the smaller fragments were larger and the larger
13 fragments had lower peak heights.

14 Q. You also heard me discussing transfer DNA and the
15 different types of transfer DNA with Ms. Smith, correct?

16 A. Yes.

17 Q. And to your understanding, is transfer DNA a widely
18 accepted event in DNA analysis?

19 A. Well, all DNA in a criminal situation is going to be
20 transferred. There is primary transfer where it goes from one
21 individual to the crime scene evidence. And then secondary
22 transfer is where it goes from an individual to some
23 intermediary to the crime scene evidence.

24 Q. Are there any factors that would affect the likelihood of
25 DNA being transferred from one object to another?

1 A. Yes. We talked about DNA mobility, and so DNA transfer is
2 more likely to occur when a sample is moist or wet, and it
3 also is a function of the amount of DNA that's being
4 transferred. So if you have a large amount of DNA, it is --
5 even if it transfers a small amount, a small percentage of the
6 total DNA, it still can be quite significant in the DNA
7 profile.

8 Q. And if DNA is, let's say, in a fluid, in a bodily fluid,
9 and it is on either clothes or on a bedsheet and that item --
10 or rather -- and an item is later wrapped or comes into
11 contact from either a prolonged period of time or a short
12 period of time, is there a possibility that DNA can transfer
13 from either the clothes or bedsheet material to another
14 object?

15 MR. APPLEBY-BHATTACHARJEE: Objection on compound
16 grounds.

17 THE COURT: Can I see you at sidebar?

18 MS. DeLEON: Sure.

19 (The following proceedings were had at sidebar outside the
20 hearing of the jury:)

21 THE COURT: Come over here. No, mainly you. Okay.
22 So, look, you got to ask shorter and simpler questions.

23 MS. DeLEON: Okay.

24 THE COURT: These are long and convoluted. They are
25 hard to understand.

1 MS. DeLEON: Okay.

2 THE COURT: He doesn't get half of them. The jury's
3 not getting any of them.

4 MS. DeLEON: Sure.

5 THE COURT: You got to have it in bite sizes. They
6 have to be nice and simple and easy to understand. So
7 Mr. Bhattacharjee's objection was right. There was --

8 MS. DeLEON: Yeah, I got you.

9 THE COURT: -- at least two and possibly more than
10 two questions in there.

11 I'm just going to say one other thing, okay, because
12 I've got to worry about future proceedings. You had him do
13 all this stuff. You had him say something about peak heights.
14 I even know this stuff, and I didn't understand what he was
15 saying. So you might want to have him explain that. Just a
16 suggestion.

17 MS. DeLEON: Okay. Sure.

18 (The following proceedings were had in open court in the
19 presence and hearing of the jury:)

20 BY MS. DeLEON:

21 Q. I want to go back just a moment, Doctor. We were talking
22 about peak heights earlier. Can you explain that to us?

23 A. Sure. The amount of DNA that is collected, extracted,
24 amplified, and profiled, the amount of DNA is proportional to
25 the peak height. Now, with regard to --

1 THE COURT: Peak of what?

2 THE WITNESS: The peak height?

3 THE COURT: Yeah.

4 THE WITNESS: Within the DNA profile, there will be
5 DNA types that will be represented in the graph as peaks.

6 THE COURT: Thank you.

7 BY MS. DeLEON:

8 Q. I want to highlight the DNA that was tested in this case.
9 You were able to review the reports of Ms. Smith and her
10 findings; is that correct?

11 A. Yes.

12 Q. And do you agree with the findings as they were reported
13 during her testimony?

14 A. Yes.

15 Q. And that is to both the rifle and the pistol; is that
16 correct?

17 A. That's correct.

18 Q. You saw a chart earlier that was shown to Ms. Smith,
19 correct, on the screens?

20 A. I did.

21 Q. And there were percentages attributed to a major
22 contributor versus what we can call a minor contributor; is
23 that right?

24 A. Yes.

25 Q. Can you explain to us what the basis of those percentages

1 is in your expertise and understanding?

2 A. Well, in my experience, it's unusual to express the
3 relative amount of DNA from different contributors in terms of
4 percentages. Most laboratories represent the relative
5 contribution as being major and minor contributors. But with
6 the advent of this new software, STRmix, that one of the
7 functions of that software is to calculate the relative peak
8 heights and estimate the percentage coming from the major and
9 minor contributors.

10 Q. And you were saying that this is an estimation, correct?

11 A. Yes.

12 Q. And the software that is used, do you have experience with
13 the software that is being used to create these estimations?

14 A. Yeah. I took a short course through the Midwestern
15 Association of Forensic Scientists this past spring that was
16 on probabilistic genotyping. And the major presenter from
17 that was an individual, Michael Kobel, who is well respected
18 in the field. And so that is my training in probabilistic
19 genotyping and this software.

20 Q. And so now switching gears just a little bit to sources of
21 DNA. Can you describe to us what are some of the sources of
22 DNA that a person can secrete?

23 A. Sure. DNA can come from blood, semen, and saliva. And
24 those -- there are specific serological tests that can detect
25 and in some cases identify. And then DNA can be on our hands.

1 And we know that some people transfer far more DNA when they
2 handle an object than other people. That can be a function of
3 contact of the hands with the mouth, nose, and eyes. It can
4 also be a function of hygiene. And if you have a cold, you
5 may be sneezing on your hands. So other tissues and body
6 fluids, mucous from the nose, tears can have DNA.

7 Q. And in testing, in DNA testing, forensic testing, there is
8 no way to determine a source of DNA; is that correct?

9 A. The source of DNA?

10 Q. Right.

11 A. Well, we can identify the individual to a high degree of
12 probability, but we cannot necessarily say with something like
13 touch DNA that we can't say what body fluid it comes from.

14 Q. And so with respect to the different kinds of secretions
15 or bodily fluids, we can talk about dry versus wet DNA, right?

16 A. Yes.

17 Q. And can you explain to us the difference between wet DNA
18 transference and dry DNA transference?

19 A. Sure. First of all, when we talk about wet and dry, those
20 are the extremes. DNA can be -- or I should say that the
21 evidence that's being tested can be anywhere in between wet
22 and dry. Once it's entirely dry, it's relatively stable.
23 It's not going to degrade. It can exist on an item for many
24 months or many years. And so -- and it is the case that DNA
25 that is more moist or more wet will transfer a greater

1 percentage of the DNA to another item that it comes in contact
2 with, but even with dried samples, there is transfer that can
3 occur. And if there's a great deal of DNA on the source, then
4 the receiving subject still can receive a significant amount
5 of DNA.

6 Q. And so would it be -- would it be safe to say that a
7 soiled bedsheet, for instance, would possibly create a greater
8 possibility for transfer to another object?

9 MR. APPLEBY-BHATTACHARJEE: Objection, compound.

10 THE COURT: No, that's not a compound question, but
11 why don't you simplify it a little bit.

12 MS. DeLEON: Sure.

13 BY MS. DeLEON:

14 Q. If a bedsheet, for instance, is dirty or soiled, can it
15 transfer fluids to another object?

16 A. Well, it is possible, depending on how much DNA is on
17 there. I have seen bedsheets with over a hundred semen stains
18 on the bedsheet. And semen, for instance, not only can be
19 transferred in its wet state, but on something that is pliable
20 such as a bedsheet, it actually can flake. So it can be
21 transferred in that way also.

22 Q. Because it can flake, was that right?

23 A. Yes.

24 Q. Okay. So if an item is wrapped in a bedsheet, as you
25 described, then transfer could occur?

1 A. It could.

2 Q. Or if an item is laid on top of a bedsheet, depending on
3 the amount of contact, transfer could occur?

4 A. Yes.

5 Q. And you also were present when I was talking with
6 Ms. Smith about the specific amount of DNA that was found in
7 this case?

8 A. Yes.

9 Q. And can you describe to us what the I guess it would be
10 the picograms that we were talking about are with Ms. Smith?

11 A. Sure. Picograms is one-trillionth of a gram. And a
12 typical human cell -- actually, every human cell with the
13 exception of sperm and egg cells contain six picograms per
14 cell. And so if there was .6 nanograms, that would be
15 equivalent to 100 human cells.

16 Q. Do you know, Doctor, how many pictograms were recovered in
17 this case?

18 A. I understood the testimony to be less than 500 -- let me
19 restate that.

20 I understood her testimony to be less than half a
21 nanogram.

22 Q. So when we talked about major and minor contributors as to
23 that amount, what does that mean? What do major and minor
24 contributors mean in the --

25 A. Well, that's the total amount of DNA that was analyzed,

1 and then within the profile, there was more DNA that came from
2 a major contributor and less DNA that came from a minor
3 contributor.

4 MS. DeLEON: One second.

5 BY MS. DeLEON:

6 Q. Finally, Doctor, what is the effect of the presence of
7 male DNA in a DNA mixture?

8 A. There are two ways that the gender of the contributors can
9 be determined. One is during the quantitation or
10 quantification step. That tests for total human DNA and male
11 DNA. And by subtracting one from the other, you get female
12 DNA. And then within the profile itself, there is a region of
13 the DNA which is not used for human identification. It's
14 called an amelogenin. And it tells you something about the
15 gender of the entire mixture when you have a mixture. And so
16 just like females are XX. They only have an X peak within
17 amelogenin. And males have an X and a Y. So if you see that
18 Y peak in a profile, you know there's at least one male
19 contributor.

20 Q. And when there's a male contributor, does that affect the
21 ability to detect a female contributor?

22 A. Oh, that's a good question. The female can be masked.
23 You cannot necessarily -- these are not all that precise.
24 They are very sensitive methods, but they are not necessarily
25 all that precise or reproducible. So if there is a great deal

1 of male DNA there, a female could be masked within that
2 mixture profile.

3 MS. DeLEON: Thank you, Doctor.

4 Just one moment.

5 I have no further questions at this time, your Honor.

6 THE COURT: Cross.

7 MR. APPLEBY-BHATTACHARJEE: May I approach, your
8 Honor?

9 THE COURT: Sure.

10 - - -

11 ALAN FRIEDMAN, Ph.D., CROSS-EXAMINATION

12 BY MR. APPLEBY-BHATTACHARJEE:

13 Q. Dr. Friedman, good afternoon.

14 A. Good afternoon.

15 Q. You've testified over 60 times in court; is that right?

16 A. Yes, I have.

17 Q. Does that include in criminal cases?

18 A. Yes, it has.

19 Q. Approximately how many times have you testified on behalf
20 of a defendant?

21 A. In every -- in every criminal case, it has been on behalf
22 of the defendant.

23 Q. Now, based on your training, your experience, you're
24 generally familiar with how DNA samples are processed for
25 comparison?

1 A. Yes.

2 Q. Sometimes that process starts by swabbing textured objects
3 to see if DNA is left behind?

4 A. That's correct.

5 Q. And you're familiar with a process called extraction?

6 A. I am.

7 Q. You're familiar with a process called quantitation or
8 quantification?

9 A. I am.

10 Q. You are familiar with a process called amplification?

11 A. I am.

12 Q. And you are familiar with a process called separation?

13 A. Yes. I think I know what you mean by that. I would call
14 it profiling. Yes.

15 Q. Or profiling. Sure.

16 Now, you didn't swab any evidence in this case; is
17 that right?

18 A. That's correct.

19 Q. And you didn't personally perform any DNA extraction?

20 A. That's correct.

21 Q. Or quantitation?

22 A. Correct.

23 Q. Or amplification?

24 A. That's correct.

25 Q. Or generate your own DNA profiles, correct?

1 A. That's correct.

2 Q. Your conclusions here are based solely on your review of
3 reports and documents received from the FBI's laboratory; is
4 that right?

5 A. That's correct.

6 Q. Are you being paid for your testimony here today?

7 A. I am.

8 Q. And so is it fair to say you were paid by the defense not
9 to conduct your own DNA analysis but to review the
10 conclusions?

11 THE COURT: I need to see you at sidebar. The jury
12 is directed to disregard that completely improper question.

13 (The following proceedings were had at sidebar outside the
14 hearing of the jury:)

15 THE COURT: Your cross-examination is within one more
16 bad question of being done. You know that is complete BS.
17 You know that is complete BS. He is not being paid by the
18 defense. He is being paid by the court, okay, which I am now
19 going to tell the jury.

20 MR. APPLEBY-BHATTACHARJEE: Yes.

21 THE COURT: And as far as him not being able to do an
22 analysis, were you willing to turn over the guns to him to do
23 it?

24 MR. APPLEBY-BHATTACHARJEE: If they were asked for,
25 I'm sure we could lay foundation. We could.

1 THE COURT: Okay. Right. When was the last time
2 that was ever done, the FBI lab turned over a gun to a defense
3 expert to test it? You tell me. When? When?

4 MR. APPLEBY-BHATTACHARJEE: I'm not aware.

5 THE COURT: Yeah. Right. Okay. You're going to get
6 an instruction right now. One more bad question, and I'm
7 going to cut it off.

8 MR. APPLEBY-BHATTACHARJEE: I understand.

9 (The following proceedings were had in open court in the
10 presence and hearing of the jury:)

11 THE COURT: Okay. I need to tell the jury something
12 here. So first of all, the witness is not being paid by the
13 defense; he is a court-appointed expert. He is being paid by
14 the court. So that question was misleading. It was wrong.
15 And it shouldn't have been asked.

16 Secondly, there's no basis to believe that the FBI
17 would have turned over the guns to the defense to test them.

18 So proceed.

19 BY MR. APPLEBY-BHATTACHARJEE:

20 Q. Dr. Friedman, you are aware that the FBI laboratory
21 recovered DNA from a Smith & Wesson rifle bearing serial
22 number TE38718; is that correct?

23 A. I am.

24 Q. You don't dispute that DNA was actually recovered from
25 that rifle?

1 A. I do not.

2 Q. You don't dispute that Cameron Battiste was included as a
3 contributor to the DNA on that rifle?

4 A. I do not.

5 Q. You don't dispute that Cameron Battiste was included as a
6 major contributor on that rifle?

7 A. I do not.

8 Q. You are aware, sir, that the FBI laboratory recovered DNA
9 from a Smith & Wesson pistol bearing serial number TE38718; is
10 that correct?

11 A. I am, yes.

12 Q. You don't dispute that DNA was actually recovered from
13 that pistol?

14 MS. DeLEON: Objection, your Honor, asked and
15 answered.

16 THE COURT: Overruled.

17 You can answer.

18 THE WITNESS: I do not dispute that.

19 BY MR. APPLEBY-BHATTACHARJEE:

20 Q. And you do not dispute that an individual named Iesha
21 Stanciel was excluded as a contributor of the DNA recovered
22 from that pistol?

23 A. That's correct.

24 Q. And you do not dispute that Cameron Battiste was included
25 as a contributor to the DNA recovered from that pistol?

1 A. That is correct.

2 Q. In fact, that Mr. Battiste was included as a major
3 contributor to the DNA on that pistol?

4 A. That is correct.

5 Q. Now, on direct examination, you testified about secondary
6 transfer. Do you recall that?

7 A. I do.

8 Q. There are a number of variables involved that can impact
9 whether secondary transfer of DNA would occur. Is that fair?

10 A. That's correct.

11 Q. Now, on direct exam, you testified that a soiled bedsheet
12 that contained DNA could possibly transfer DNA onto a surface
13 like a weapon. Do you recall that?

14 A. I do.

15 Q. You have no evidence that the firearms here were wrapped
16 in a soiled bedsheet, do you?

17 A. I do not.

18 Q. You submitted a written report in this case. Do you
19 recall that?

20 A. I do.

21 MR. APPLEBY-BHATTACHARJEE: Your Honor, may I
22 approach the witness with his report?

23 THE COURT: Sure.

24 BY MR. APPLEBY-BHATTACHARJEE:

25 Q. Dr. Friedman, I have handed you a two-page document. Is

1 that your written report in this case?

2 A. It is.

3 Q. In your written report on page 2, do you discuss the
4 concept of secondary transfer?

5 A. I do.

6 Q. There is a footnote there, footnote 3. Do you see that?

7 A. Yes.

8 Q. And there is a citation to an article titled secondary --
9 transfer -- DNA transfer of biological substances under
10 varying test conditions. Do you see that?

11 A. I do.

12 Q. And you cited that article in support of your written
13 opinion in this case?

14 A. I did.

15 Q. And experts in your field would reasonably rely on the
16 data in this article to form an opinion about secondary
17 transfer of DNA. Is that fair?

18 A. Yes.

19 Q. And you relied on the data in this article itself in order
20 to reach your conclusions in this case?

21 A. In part.

22 Q. Correct. In part, you relied on the data in this article
23 that's cited in your written report. Is that fair?

24 A. Yeah, the Goray article is the one that tests secondary
25 transfer under various conditions, smooth material to rough

1 conditions -- rough material, cotton, wool, and also mobility
2 under wet and dry conditions.

3 Q. So the authors of that article did subject in lab
4 conditions items made of cotton to certain tests?

5 A. Yes.

6 Q. And items made of wool to certain tests?

7 A. Wool, wood, plastic.

8 Q. And you would agree that bedsheets can be made of cotton?

9 A. They can be.

10 Q. Now, the findings in that article were that there's only
11 minimal secondary transfer from DNA on surfaces such as cotton
12 or wool; is that correct?

13 A. That's correct.

14 Q. DNA recovered from a gun can be the result of direct
15 contact with that gun. Is that fair?

16 A. Say that again?

17 Q. DNA that is ultimately recovered from a gun can be the
18 result of direct contact with that gun. Is that fair?

19 A. Yes.

20 Q. And it's absolutely possible that the DNA recovered from
21 the firearms in this case got there because of direct contact
22 with the defendant?

23 A. That's possible.

24 Q. You don't dispute that it is 240 billion times more likely
25 that Cameron Battiste as opposed to someone else is the major

1 contributor of the DNA recovered from the rifle?

2 A. I do not.

3 Q. You do not dispute that it is 62 quintillion times more
4 likely that Cameron Battiste, as opposed to someone else, is
5 the major contributor of the DNA recovered from the pistol?

6 A. That's correct.

7 MR. APPLEBY-BHATTACHARJEE: I have no further
8 questions, your Honor.

9 THE COURT: Redirect.

10 - - -

11 ALAN FRIEDMAN, Ph.D., REDIRECT EXAMINATION

12 BY MS. DeLEON:

13 Q. Have you ever worked with a prosecution in a criminal
14 case --

15 A. I have.

16 Q. -- Doctor?

17 And why is it typically that you don't testify for
18 the prosecution in a criminal case?

19 A. Well, in most cases, it's the government's crime lab
20 analysts that will testify for the prosecution. They are
21 essentially on full-time retainers for the prosecution.

22 Q. So you don't testify because they already have their
23 people; is that correct?

24 A. Right.

25 MS. DeLEON: No questions.

1 THE COURT: Anything based on that?

2 MR. APPLEBY-BHATTACHARJEE: No, your Honor.

3 THE COURT: The witness is excused.

4 So we are back to calling government witnesses at
5 this point?

6 MR. APPLEBY-BHATTACHARJEE: Yes, your Honor. The
7 government's next witness will be Special Agent Michael
8 Ericks.

9 THE COURT: And you know you were already under oath,
10 right?

11 THE WITNESS: Yes, sir.

12 THE COURT: I'm not going to swear him in again
13 because he was sworn in.

14 All right. You can proceed.

15 MR. APPLEBY-BHATTACHARJEE: If I can have a moment to
16 get the laptop, your Honor.

17 THE COURT: Sure.

18 - - -

19 MICHAEL ERICKS, DIRECT EXAMINATION (RESUMED)

20 BY MR. APPLEBY-BHATTACHARJEE:

21 Q. Good afternoon, Special Agent Ericks.

22 A. Good afternoon.

23 Q. We're going to have you briefly read a few documents into
24 the record.

25 MR. APPLEBY-BHATTACHARJEE: Your Honor, may I place

1 before the witness Exhibit 17?

2 THE COURT: Sure.

3 MR. APPLEBY-BHATTACHARJEE: May I publish?

4 THE COURT: Yeah, that's fine. It's already in
5 evidence. I just admitted this right before. Right.

6 MR. APPLEBY-BHATTACHARJEE: Yes, your Honor.

7 BY MR. APPLEBY-BHATTACHARJEE:

8 Q. Now, Special Agent Ericks, in the course of this
9 investigation, were you or agents at your direction routinely
10 obtaining email communications exchanged by Iesha Stanciel
11 while she was in custody?

12 A. Correct.

13 Q. And did those include emails that Iesha Stanciel exchanged
14 with Defendant Cameron Battiste?

15 A. They did.

16 Q. Looking to the first page of Exhibit 17, would you please
17 first draw your attention to the highlighted portion at the
18 bottom of this email and note who is the sender on the email?

19 A. The sender is Battiste, Cameron.

20 Q. And what is the date that this email is sent?

21 A. April 26, 2017.

22 Q. And would that be after agents executed the arrest warrant
23 for Ms. Stanciel?

24 A. Yes. Just about three weeks shy of the arrest -- after
25 the arrest.

1 Q. And would you please read the content of that email.

2 A. "The car gone and seven-day note on door. I'm fucked.
3 Smfh."

4 Q. And above that email, can you see another email being
5 sent?

6 A. Yes.

7 Q. Who is that being sent from?

8 A. Iesha Stanciel.

9 Q. Who is it being sent to?

10 A. Cameron Battiste.

11 Q. And does this email appear to be in response to the email
12 you just read from Mr. Battiste?

13 A. Yes, it does.

14 Q. If you could read for the members of the jury, I'll
15 highlight approximately three sentences. If you could just
16 read that into the record.

17 A. "Find a way to DuPage tomorrow. Go to clerk office, take
18 the five-day notice with you. Tell them you have been served
19 with a five-day notice and you would like to file a motion to
20 stay. File the motion as an indigent. Tell them you lost
21 your job recently and you need time for you and your
22 girlfriend to move, who is on a CPAP machine, breathing stops
23 at night. You must do that ASAP."

24 Q. And, Special Agent Ericks, the Willowbrook apartment where
25 the arrest was executed, are you aware of which county in

1 Illinois that apartment is located in?

2 A. Yes. That's located in DuPage County.

3 Q. If I could turn your attention to the second page of this
4 document.

5 MR. APPLEBY-BHATTACHARJEE: Your Honor, may I be
6 heard at sidebar for a moment?

7 THE COURT: Sure. While we are talking about it, I'm
8 going to take it down from the jury's screen.

9 (The following proceedings were had at sidebar outside the
10 hearing of the jury:)

11 THE COURT: Do I need to see the thing?

12 MR. APPLEBY-BHATTACHARJEE: It's the same redaction.
13 I just want -- if your Honor would instruct the jury just
14 because things are redacted, they shouldn't speculate.

15 THE COURT: Thank you for telling me that.

16 (The following proceedings were had in open court in the
17 presence and hearing of the jury:)

18 THE COURT: You may see some things that are kind of
19 blacked out or omitted from the email. That's because they
20 are not relevant. You shouldn't try to speculate on what's
21 there.

22 Okay. Go ahead. I'll put it back up. There you go.

23 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.

24 BY MR. APPLEBY-BHATTACHARJEE:

25 Q. If I could turn your attention first, Special Agent

1 Ericks, to the bottom of page 2 of the exhibit. You can see
2 an email that's being sent at the bottom there. Who is the
3 sender?

4 A. Cameron Battiste.

5 Q. And what's the approximate date that's noted on the email?

6 A. April 30th.

7 Q. And so just drawing your attention to the highlighted
8 part, would you please read into the record what Mr. Battiste
9 writes.

10 A. "What exactly I'm I trying to do at the courthouse?"

11 Q. And is this being written to Ms. Stanciel?

12 A. Yes, it is.

13 Q. If I could draw your attention now to the middle portion
14 of the page, can you tell who the sender of that email is?

15 A. Iesha Stanciel.

16 Q. Is that being sent to Mr. Battiste?

17 A. It is.

18 Q. What's the date?

19 A. May 1st, 2017.

20 Q. If you could read the full content of that excerpt into
21 the record, please.

22 A. "Go to the clerk's office, tell them you have been served
23 with a seven-day notice, bring seven-day with you, and you
24 would like to file a motion for a stay. File the motion as
25 indigent. Tell them how you lost your job recently and need

1 time for you and your girlfriend, who is on a CPAP machine,
2 breathing stops at night. And you have been occupying the
3 apartment since the lease began, and you need time to move."

4 Q. And, now, if you could look at the top portion of page 2
5 of the exhibit, can you see who the sender of the email is?

6 A. Yes. The sender is Cameron Battiste.

7 Q. And who is it being sent to?

8 A. Iesha Stanciel.

9 Q. And what's the date?

10 A. May 1st, 2017.

11 Q. Would you please read the email into the record.

12 A. "It's a lot of weird shit been going on. Why I'm up at
13 6:30 getting ready. I had been downloaded the app the other
14 day. I got to put card number in. It won't accept it. I put
15 money on the card and everything. I tried Lyft and Uber. It
16 won't accept it. I called the card. They don't know why it
17 didn't work because it show money I got on it. I'm going to
18 have to go to court first thing in morning. I was up at 6:00
19 because I wanted to be there early so won't be no BS. The
20 shit piss me off. We had to pay \$1600 before May 21 to get
21 car back. I got like there now. I'm going to have to use
22 like \$100 to get to court. It's \$30 there and \$30 back."

23 Q. Thank you, Special Agent Ericks.

24 Turning your attention now --

25 MR. APPLEBY-BHATTACHARJEE: Your Honor, would you

1 give me the screen just so I can make sure the redactions are
2 there?

3 THE COURT: Yep. There you go.

4 MR. APPLEBY-BHATTACHARJEE: Do you want to come and
5 take a look?

6 THE COURT: I think it's correct.

7 MR. APPLEBY-BHATTACHARJEE: May I proceed?

8 THE COURT: All right.

9 BY MR. APPLEBY-BHATTACHARJEE:

10 Q. Now, turning your attention to the bottom of page 3 of the
11 exhibit, do you see who is sending the email at the bottom?

12 A. Iesha Stanciel.

13 Q. Is that being sent to Cameron Battiste?

14 A. It is.

15 Q. What's the date?

16 A. May 1st, 2017.

17 Q. And what's the content of that email?

18 A. "Why didn't get no mail or pictures today? It's just the
19 beginning. Don't fall apart. God got you."

20 Q. Now, if you could turn to the middle portion of the page.
21 I'm sorry. Let me try that again.

22 Are you able to make out the email in the middle
23 portion of the page?

24 A. Yes.

25 Q. And who is that email from?

1 A. Cameron Battiste.

2 Q. Who is it to?

3 A. Iesha Stanciel.

4 Q. What's the date?

5 A. May 1st, 2017.

6 Q. Could you read the content of the email, please.

7 A. "Iesha, don't do that shit, bro, smmfh. You know how
8 fucked up it is for me out here right now. You talking about
9 MF picture and shit. What about our car? What about where
10 the fuck ima sleep? Yo ass tripping, smmfh."

11 Q. I'm drawing your attention now to the email at the top of
12 the page. Are you able to make out who the email is from?

13 A. Iesha Stanciel.

14 Q. Who is it to?

15 A. Cameron Battiste.

16 Q. What's the date?

17 A. May 1st, 2017.

18 Q. What's the time stamp?

19 A. 9:00 p.m.

20 Q. Could you read the highlighted statement, please.

21 A. "Let me know how things work at the courthouse."

22 MR. APPLEBY-BHATTACHARJEE: And now, your Honor, if I
23 may publish Exhibit 19, which is also entered into evidence.

24 THE COURT: That's fine. Go ahead.

25 BY MR. APPLEBY-BHATTACHARJEE:

1 Q. Special Agent Ericks, are you familiar with this document?

2 A. I am.

3 Q. Is this a certified docket of certain court proceedings
4 taking place in DuPage County?

5 A. Yes, it is.

6 Q. Are these docket proceedings relating to an eviction?

7 A. It is.

8 Q. If you could note at the top of the page, I'm going to
9 draw your attention first to the party names. Would you read
10 what's highlighted on the screen?

11 A. "Name: Jasmine Mattox. Role: First named defendant."

12 Q. If you could draw your attention to the next highlighted
13 excerpt and read that into the record.

14 A. "Name: Cameron Battiste. Role: Party of interest."

15 Q. And if you could read the line below that that I have now
16 highlighted as well.

17 A. "Name: Cameron Battiste. Role: Pro se attorney.

18 Address: 10 South 481 Ivy Lane, Willowbrook, Illinois, ZIP
19 code 60527."

20 Q. And that address that you just read, is that the address
21 where the arrest warrant for Iesha Stanciel was executed?

22 A. It was.

23 Q. Bear with me one moment, Special Agent.

24 Turning your attention back momentarily to Exhibit 17
25 and page 2.

1 MR. APPLEBY-BHATTACHARJEE: May I walk a copy up to
2 the witness?

3 THE COURT: Sure. That's fine.

4 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.

5 BY MR. APPLEBY-BHATTACHARJEE:

6 Q. Special Agent Ericks, on page 2 of Exhibit 17, do you
7 recall reading an excerpt of an email in which Iesha Stanciel
8 directs Mr. Battiste to go to the clerk's office?

9 A. Yes.

10 Q. And directs Mr. Battiste to say he would, quote, like to
11 file a motion for a stay?

12 A. Yes.

13 Q. And is that email dated May 1st, 2017?

14 A. It is.

15 Q. Turning your attention back to Exhibit No. 19, can you see
16 that the docket for the action reflects on May 2nd, 2017, a
17 notice of motion being filed?

18 A. No.

19 Q. Is it on your screen?

20 A. I don't have it.

21 Q. It's on your screen. Is it not on your screen?

22 THE COURT: That's my fault then.

23 Okay. There you go.

24 BY MR. APPLEBY-BHATTACHARJEE:

25 Q. Let me rephrase my question now that it's on your screen.

1 Do you see from the docket of the action on page 3 of
2 Exhibit 19 an entry on the docket dated May 2nd, 2017,
3 entitled Notice of Motion?

4 A. I do.

5 Q. And two lines above that, do you see a docket entry that
6 says "address"?

7 A. I do.

8 Q. And below that, could you read the information that's on
9 the record?

10 A. "Cameron Battiste. Address type: Home. Address line:
11 10 South 481 Ivy Lane. City: Willowbrook. State:
12 Illinois."

13 MR. APPLEBY-BHATTACHARJEE: Nothing further, your
14 Honor.

15 THE COURT: Mr. Adams.

16 - - -

17 MICHAEL ERICKS, CROSS-EXAMINATION

18 BY MR. ADAMS:

19 Q. Hello again, Agent.

20 A. Good afternoon.

21 Q. So you went over some emails between Ms. Stanciel and
22 Mr. Battiste, right?

23 A. Yes.

24 Q. And these are emails Ms. Stanciel sent from jail?

25 A. That's correct.

1 Q. She was unable to go to the DuPage courthouse, correct?

2 A. Correct.

3 Q. So she had Cameron do it for her?

4 A. Evidently.

5 Q. So he's taking direction from Ms. Stanciel, correct?

6 A. Correct.

7 Q. To file these documents in her foreclosure case, correct?

8 A. Correct.

9 Q. He puts the address of the Willowbrook apartment on
10 because that's the address of the foreclosure, correct?

11 MR. APPLEBY-BHATTACHARJEE: Objection, your Honor.

12 THE COURT: Sustained. He can't speculate on why
13 something was done by somebody else.

14 BY MR. ADAMS:

15 Q. You also looked at the docket sheet for the court case in
16 DuPage, correct?

17 A. Yes.

18 Q. And the address that Mr. Battiste put is the Willowbrook
19 address, right?

20 A. Correct.

21 Q. And that's about almost a month after Ms. Stanciel's
22 arrest, correct?

23 A. The arrest was on April 7. I believe that document,
24 pro se motion, was on May 2.

25 MR. ADAMS: Nothing further, Judge.

1 THE COURT: Redirect?

2 MR. APPLEBY-BHATTACHARJEE: Nothing further, your
3 Honor.

4 THE COURT: The witness is excused.

5 Any further witnesses or evidence?

6 MR. APPLEBY-BHATTACHARJEE: May we have a moment,
7 your Honor?

8 THE COURT: Sure.

9 (Brief pause.)

10 MR. APPLEBY-BHATTACHARJEE: Your Honor, may we be
11 heard at sidebar?

12 THE COURT: Sure. Absolutely.

13 MR. APPLEBY-BHATTACHARJEE: Thank you.

14 (The following proceedings were had at sidebar outside the
15 hearing of the jury:)

16 MR. APPLEBY-BHATTACHARJEE: The only thing, your
17 Honor --

18 THE COURT: Get closer. I don't think she caught
19 that.

20 MR. APPLEBY-BHATTACHARJEE: The only thing, your
21 Honor, is since Ms. Smith did sit in during the examination.

22 THE COURT: You want to call her for rebuttal?

23 MR. APPLEBY-BHATTACHARJEE: If we can just confer
24 with her for five minutes. And if there is nothing, we
25 anticipate resting shortly.

1 THE COURT: Okay. I mean, if there's nothing, then
2 you are going to rest?

3 MR. APPLEBY-BHATTACHARJEE: That's what we
4 anticipate, yes.

5 THE COURT: Okay. So five minutes is a real five
6 minutes, so that's fine. And I assume that the odds are she
7 is going to say no, or maybe it's a couple of minutes of
8 stuff. And then you should be prepared to tell me whether you
9 got any other evidence and if the defense is going to testify.
10 Before you say I want to think about it overnight, the answer
11 is going to be no.

12 MR. ADAMS: We have a witness, Mr. Battiste's Aunt
13 Tandy. She was scheduled to come here tomorrow morning at
14 8:30.

15 THE COURT: So you are going to call somebody else.
16 That's fine.

17 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.
18 (The following proceedings were had in open court in the
19 presence and hearing of the jury:)

20 THE COURT: I know we're close to 4:30. We are going
21 to take a five-minute break, five, just so some quick
22 conferring can be done, so we can kind of get a little more
23 information before we leave. So just five minutes, and then
24 we'll get back at it.

25 (The jury leaves the courtroom.)

1 (Short break.)

2 MR. SRIVASTAVA: We don't anticipate recalling
3 Ms. Smith to the stand. Essentially, we don't expect to call
4 any more witnesses. What we propose, given the hour, is that
5 we formally rest tomorrow morning.

6 THE COURT: No. No.

7 MR. SRIVASTAVA: Okay. In that case, your Honor, we
8 will be prepared to rest.

9 THE COURT: Okay. And then you're telling me -- not
10 like the thing before lunch where I asked you if you had much
11 more cross and it was 10 to 15 minutes and you ended up with
12 no questions. You are telling me you are going to call this
13 person tomorrow.

14 MR. ADAMS: One person, five minutes, your Honor.

15 THE COURT: Okay. All right. So I'm going to wait
16 until tomorrow morning to discuss with Mr. Battiste his
17 decision not to testify. I'm going to assume you're going to
18 go through that with him. And so -- fine. That's what we are
19 going to do.

20 MR. APPLEBY-BHATTACHARJEE: Your Honor, before we
21 bring the jury in, can we just confirm which exhibits have
22 been moved in with the Court's record?

23 THE COURT: Absolutely. No, we should do that. We
24 should do that.

25 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.

1 So we have --

2 THE COURT: Just pay attention here so that if
3 there's any issues, we can deal with them right now.

4 MR. APPLEBY-BHATTACHARJEE: We have Exhibits 1 and
5 1-A, 2 and -- essentially Exhibits 1 all the way through
6 Exhibit 17 admitted.

7 THE COURT: There's a 19 as well.

8 MR. APPLEBY-BHATTACHARJEE: Exhibit 18 was marked
9 only for identification. Exhibit 19 was admitted, and
10 Exhibits 21 and 22 we have as admitted as well.

11 THE COURT: Yeah, that sounds right to me. Does that
12 sound right to you? When you say 1 through 17, there were
13 some A's in there.

14 MR. APPLEBY-BHATTACHARJEE: Right.

15 THE COURT: And those were all admitted, too.

16 MR. APPLEBY-BHATTACHARJEE: 1-A, 2-A, 3-A, and 4-A.

17 MR. ADAMS: 6-A through 6-E as well.

18 MR. APPLEBY-BHATTACHARJEE: I just want to confirm
19 defense counsel's recollection that all stipulations have been
20 read to the jury.

21 MR. ADAMS: Yes, they have.

22 THE COURT: Okay. Good. All right.

23 MR. APPLEBY-BHATTACHARJEE: Thank you.

24 THE COURT: You can bring the jury in.

25 (The jury enters the courtroom.)

1 THE COURT: All right. Everybody can have a seat.
2 Any more witnesses or evidence for the government?

3 MR. SRIVASTAVA: Your Honor, we have no additional
4 evidence to present. At this time the United States rests its
5 case in chief.

6 THE COURT: All right. So we are going to stop for
7 the day. We are going to resume at -- let me just look at my
8 schedule of other things. It should be right about 10 o'clock
9 tomorrow. The government's rested its case, but you haven't
10 heard everything yet. There's conceivably other evidence.
11 There's instructions. There's lawyer arguments. So don't
12 start making up your mind yet. Don't start discussing the
13 case. Keep an open mind. Be careful going home. It's been
14 doing some funny stuff out there this afternoon. And we'll
15 see you at 10:00 o'clock in the morning.

16 (The jury leaves the courtroom.)

17 THE COURT: Okay. So let's just talk about logistics
18 a little bit. So on the instructions, I think what we ought
19 to figure maybe -- what I'd appreciate -- we'll talk about
20 them on the record, but what I'd appreciate if you could do
21 would be to get -- you still got my email address -- to get
22 each other and me by email this evening just kind of a
23 heads-up on any issues that you're likely to raise just so
24 everybody knows what they are. I think it will streamline
25 things in the morning. It may make sense to talk about that

1 before the witness testifies. We can figure that out
2 tomorrow. That's one thing.

3 The second thing is, do you want to argue the Rule 29
4 motion now, or do you want to argue it after your witness
5 testifies? I mean, it doesn't matter legally.

6 MR. ADAMS: After the witness testifies.

7 THE COURT: Fine. Okay. So figure on doing that
8 tomorrow, too.

9 Just a reminder, I instruct the jury before closings,
10 so, you know, it will take however long it takes.

11 Ballpark, how long are you talking about on closings?

12 MR. APPLEBY-BHATTACHARJEE: For the government's open
13 and close, I think we clocked in at about 23, 25 minutes.

14 THE COURT: Between -- so that means 24.

15 MR. APPLEBY-BHATTACHARJEE: Right.

16 THE COURT: Okay. So you get 24 then, not 24 and a
17 half. I'm joking.

18 MR. ADAMS: Around 20 minutes, your Honor.

19 THE COURT: Okay. That all seems fine. So if his
20 ends up being 20, so figure no more than about 10 for rebuttal
21 then.

22 MR. SRIVASTAVA: That's fine, your Honor.

23 THE COURT: Okay. All right. So on the exhibits,
24 just make sure that Pam has got the thumb drive of everything
25 on it. And if you've got anything that you might be

1 introducing, just make sure she's got a thumb drive. Even if
2 you don't end up using it, we just upload the stuff that gets
3 admitted so that that's all ready to go tomorrow, too.

4 On the indictment, we need -- we will need to have
5 12 -- I'd like to have 12 copies. And you'll need to just
6 redact out the true bill, you know, signature by the
7 foreperson type stuff is normal.

8 Oh, we got to get the other counts out. There's
9 counts that just involve Ms. Stanciel.

10 MR. APPLEBY-BHATTACHARJEE: Stanciel.

11 THE COURT: So we will need to --

12 MR. APPLEBY-BHATTACHARJEE: We do have a proposed
13 redacted indictment that we'll share with the defense tonight
14 and make sure --

15 THE COURT: Is it going to call the count Count 1, or
16 was it already Count 1?

17 MR. SRIVASTAVA: Judge, it was Count 2 in the
18 indictment. The way we proposed -- again, I can tender a copy
19 up to the Court as well.

20 THE COURT: Just tell me. It's okay.

21 MR. SRIVASTAVA: It just says Count 1, on or about
22 April 7th. It has the names of both defendants, and then it
23 has the charging language.

24 THE COURT: The count that is at issue we're calling
25 Count 1. So we're not going to just give them a Count 2 and

1 they're going to wonder what Count 1 is.

2 MR. SRIVASTAVA: Exactly, your Honor. It's been
3 amended to say Count 1.

4 THE COURT: That's perfect. That's perfect.

5 MR. SRIVASTAVA: We have redacted the signature and
6 the foreperson and the true bill.

7 THE COURT: Yep. Okay. Just make sure you have 12
8 copies tomorrow. Okay. Thanks.

9 MR. APPLEBY-BHATTACHARJEE: Thank you, your Honor.

10 (The trial was adjourned at 4:30 p.m. on February 12, 2019,
11 until 10:00 a.m. on February 13, 2019.)
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